TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1904.

No. 228.

LUTHER CLAY SLAVENS, APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE COURT OF CLAIMS.

FILED APRIL 21, 1904.

(19,303.)

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., AUGUST 26, 1904.

1 In the United States Court of Claims.

LUTHER CLAY SLAVENS, Claimant,
versus
THE UNITED STATES. } No. 21973.

I.—*Petition and Exhibits. Filed July* 17, 1900.

To the honorable the justices of the Court of Claims:

The above named claimant, Luther Clay Slavens, respectfully represents:

First. That he is a citizen of the United States, a resident of the city of Kansas City in the State of Missouri, and brings this his suit in his own right in respect to the matters hereinafter set forth.

Second. That heretofore, to-wit, on the 15th day of September, 1892, the then Postmaster General of the United States, acting on behalf of the United States, advertised for proposals for transporting the mails in various cities, and among others, on route No. 204001, being the covered regulation wagon mail messenger transfer and mail station service, at the city of Boston, Massachusetts, a copy of which said advertisement, so far as the same relates to proposals for the route last aforesaid and the instructions to bidders, is hereto annexed and made a part hereof and marked "Exhibit A."

Third. That pursuant to said advertisement and the several matters therein set forth and contained, this claimant made and
2 filed with the department a proposal for the performance of said service, consisting of transporting the mails at and in said city of Boston as aforesaid, for the period named in said advertisement, to-wit: from the first day of July, 1893, to June 30, 1897, inclusive, naming as the compensation to be received by claimant therefor, the sum of $49,516.00 per annum; that said bid was duly accepted by the department, and thereafter, to-wit: on the 21st day of December, 1892, claimant entered into a contract with the United States for the performance of said service during the period aforesaid; a true and correct copy of which said contract is hereto annexed and made a part hereof, and marked "Exhibit B," and that thereupon, and thereafter, this claimant engaged in the carrying of the mails aforesaid under and in pursuance of said contract.

By the terms of said contract it was provided that said claimant should at and in said city of Boston, take the mail from and deliver it into the post offices, the mail stations, and the cars, at such points and at such hours, under the direction of the postmaster at Boston, approved by the Postmaster General, as will secure dispatches and connections and facilitate distribution.

And it was also provided in said contract that the Postmaster General might annul said contract for repeated failures, for vio-

lating the postal laws, for disobeying instructions of the Post Office Department, and for other reasons therein specified; but claimant avers that during the time he performed such service under said contract, none of the reasons therein mentioned for annulling such contract have existed; that he faithfully and satisfactorily performed his contract on his part in every respect, and that the defendant never claimed or attempted to claim anything to the contrary, and never annulled, or attempted to annul, said contract for any of the reasons authorizing it so to do by the terms of said contract.

And this claimant further states that said contract also pro-
3 vided that said Postmaster General might increase, decrease or extend the service to be rendered under said contract, but without any change of pay therefor; and further, that said Postmaster General might discontinue the *entire* service whenever the public interest, in his judgment, should require such discontinuance.

And claimant further shows that thereafter, and during the term of the said contract in this paragraph referred to, the defendant, under date of December 9th, 1895, ordered claimant to discontinue the service so being duly performed by him as aforesaid on said route No. 204001, a true copy of which order last aforesaid is hereunto annexed, made a part hereof, and marked "Exhibit C," and that pursuant to said order this claimant was compelled to discontinue the performance of said service on January 31st, 1896.

The claimant further shows that said order on him to discontinue said service under his said contract, was not made on account of any alleged neglect or default on the part of this claimant in the performance of his said contract, but on the face of said order, and as disclosed by other communications between defendant and claimant in connection therewith, the right was asserted by the defendant to so order the claimant to discontinue the said service under the supposed authority of the clause contained in said contract providing "that the Postmaster General may discontinue the entire service whenever the public interest, in his judgment, shall require such discontinuance;" but claimant avers the fact to be that there was in fact no discontinuance whatever of the service in carrying the mails on the route aforesaid, but that the real reason for said order on claimant to discontinue said service was that during the contract period aforesaid, and prior to said order on claimant to discontinue said service, the defendant had decreased the amount of service to be performed by claimant under said contract, and which said decrease of service was, as expressly provided by the contract aforesaid, to be without decrease of pay to this claimant therefor, and that thereafter, and while the contract was still
4 in full force and effect, and in order to have the remaining service performed at a less rate of compensation than was provided by said contract, and for no other reason, the defendant, in violation of the rights of claimant, and in express violation and disregard of said contract then existing between the claimant and

defendant, ordered and compelled claimant to discontinue the said service, although immediately after said order to claimant to discontinue said service was served on him, the said defendant relet the same service to another for the balance of said contract period, which said service was thereafter continuously performed by such other, from the time claimant was thus compelled to cease performing said service, and during the remainder of the contract period aforesaid, so that there was in fact, no discontinuance of such service, but the same was continued right along by another contractor under a new contract from the time claimant was thus wrongfully compelled to cease performing such service until the end of the period for which claimant had contracted to perform said service.

By reason of which acts and conduct of said defendant in this regard claimant avers that he has sustained damage and loss in the sum of $32,128.00, covering the period of his said contract from the date of said alleged discontinuance thereof, namely, January 31st, 1896, to the termination of said contract period, namely, June 30th, 1897.

Claimant further shows in this connection that said order of defendant upon him to discontinue said service above referred to, and the enforcement thereof by the said defendant, was not acquiesced in or assented to by him, but on the contrary, was expressly against his consent and protest.

Claimant further shows that during the time he performed the service under said contract for transporting the mails at the city of Boston, Massachusetts, above mentioned, the defendant required him to transport the said mails between the mailing room and the basement of the general post office at said city, and the street railway line on Water street in said city, from the 1st day of June, 1895, to the 1st day of February, 1896, covering a period of 35 weeks, which service claimant avers was not included in the requirements of said contract, but was so required by the defendant to be by him performed and was in fact performed by him under protest, and that the reasonable value of such service was and is the sum of $30.00 per week, amounting to the sum of $1,050.00, for the period aforesaid, no part of which sum has ever been paid to claimant, but the whole thereof remains and is still due and owing from the defendant.

He further avers that during the term of said contract, he was also required by the defendant to transport the mails aforesaid between what is known as the Back Bay post office and the Brook Line post office, the latter post office being outside the city limits of Boston, Massachusetts, and that said service was not embraced within nor required to be performed by the terms and conditions of his said contract; that said service so required as aforesaid was in fact performed by the claimant under protest during the period from February 12th, 1894, to August 14th, 1894, and the same was and is reasonably worth the sum of $650.00, no part of which said sum has

ever been paid to this claimant, but the whole thereof remains and is due and owing from the defendant.

Fourth. That heretofore, to-wit: on the 15th day of September, 1892, the then Postmaster General of the United States, acting on behalf of the United States, also invited proposals for transporting the mail on route No. 207,001, being the covered regulation wagon mail messenger, transfer and mail station service at the city of Brooklyn, State of New York, a copy of which said advertisement, so far as the same relates to said route last aforesaid, and so far as not already set forth in Exhibit A aforesaid, is hereunto annexed, made a part hereof, and marked "Exhibit D."

That pursuant to said advertisement and of the matters and
6 things therein set forth and contained, claimant made and filed with the department a proposal for the performance of said service, consisting of carrying the mails in said city of Brooklyn for the period named in said advertisement, from the 1st day of July, 1893, to the 30th day of June, 1897, inclusive, naming as the compensation to be received by claimant therefor the sum of $18,934.00 per annum; that said bid was duly accepted by said department, and thereafter, to-wit: on the 21st day of December, 1892, claimant entered into a contract with the United States for the performance of said service during the period aforesaid, a true and correct copy of which said contract is hereto annexed, made a part hereof, and marked "Exhibit E," and thereupon claimant engaged in the carrying of the mails aforesaid under and in pursuance of said contract.

By the terms of said contract it was provided that said claimant should at and in said city of Brooklyn, take the mail from and deliver it into the post offices, the mail stations, and the cars, at such points and at such hours, under the direction of the postmaster at Brooklyn, approved by the Postmaster General, as will secure dispatches and connections and facilitate distribution.

And it was also provided in said contract that the Postmaster General might annul said contract for repeated failures, for violating the postal laws, for disobeying instructions of the Post Office Department, and for other reasons therein specified; but claimant avers that during the time he performed such service under said contract, none of the reasons therein mentioned for annulling such contract have existed; that he faithfully and satisfactorily performed his contract on his part in every respect, and that the defendant never claimed or attempted to claim anything to the contrary, and never annulled, or attempted to annul, said contract for any of the reasons authorizing it to do so by the terms of said contract.

And this claimant further states that said contract also provided
7 that said Postmaster General might increase, decrease or extend the service to be rendered under said contract, but without any change of pay therefor; and further, that said Postmaster General might discontinue the *entire* service whenever

the public interest, in his judgment, should require such discontinuance.

And claimant further shows that thereafter, and during the time of the said contract last above mentioned, the defendant, under date of January 21st, 1896, ordered claimant to discontinue the service so being duly performed by him as aforesaid on said route No. 207001, a true and correct copy of which order last aforesaid is hereunto annexed, made a part hereof, and marked "Exhibit F," and that pursuant to said order, this claimant was compelled to discontinue the performance of said service on the first day of March, 1896.

Claimant further shows that said order on him to discontinue said service under his said contract was not made on account of any alleged neglect or default on his part in the performance of said contract, but on the face of said order, and as disclosed by other communications between defendant and claimant in connection therewith, the right was asserted by the defendant to so order and compel this claimant to discontinue said service under the supposed authority of the clause contained in said contract providing "that the Postmaster General may discontinue the entire service whenever the public interest, in his judgment, shall require such discontinuance;" but claimant avers the fact to be that there was no discontinuance whatever of the service in carrying the mails on the route aforesaid, but that the real reason for said order on claimant to discontinue said service and for the enforcement thereof, was that during the contract period aforesaid, and prior to said order on claimant to discontinue said service, the defendant had decreased the amount of service required to be performed by claimant under said contract, and which said decrease of service was, as expressly provided by the contract aforesaid, to be without decrease of pay to this claim-
8 ant, and that thereafter, and while this contract was still in full force and effect, and in order to have the remaining service performed at a less rate of compensation than was provided by said contract, and for no other reason, the defendant, in violation of the contract then so existing between claimant and defendant, ordered and compelled claimant to discontinue said service, although immediately after said order of defendant to discontinue said service was served on claimant, the defendant relet the same service to another for the balance of said contract period, which said service was thereafter continuously performed by such other from the time claimant was thus compelled to cease performing such service, during the remainder of the contract period aforesaid, so that there was in fact no discontinuance of said service, but the same was continued right along by another contractor under a new contract from the time claimant was thus wrongfully compelled to cease performing said service until the end of the time for which claimant had contract to perform said service.

By reason of all which acts and conduct of defendant in this regard, claimant avers he has sustained damage and loss in the sum of $16,064.00, covering the period of his said contract from the date

of said alleged discontinuance thereof, March 1st, 1896, to the termination of said contract period, namely, June 30, 1897.

Plaintiff further shows in this connection that said order of defendant upon him to discontinue said service above referred to, and the enforcement of said order upon him were not acquiesced in or assented to by him, but on the contrary were expressly against his consent and protest.

Claimant further shows that in the performance of the service of transporting the mails on route No. 207001 at the city of Brooklyn, New York, during the contract period, to-wit: beginning July 1st, 1893, and ending June 30, 1897, claimant was required by the defendant to perform, and did in fact perform, under pro-
9 test, the following service, which was not embraced within, nor required by, the terms of said contract, to-wit:

(*a.*) Transfers between station E and Manhattan crossing, being a distance of 0.38 miles, 36 trips per week, during the period from December 18, 1895, to March 1, 1896, and that said service was and is reasonably worth the sum of 30 cents per trip, said services aggregating the sum of.....	$112.53
(*b.*) Transfers between Brooklyn Heights Railway street line, and said station E, a distance of 0.23 miles, 119 trips per week, during the period from December 18, 1895, to March 1, 1896, and which service was and is reasonably worth the sum of 25 cents per trip, aggregating the sum of.....	310.00
(*c.*) Transfers between station G and Brooklyn Heights Railway street line, a distance of 0.06 miles, 118 trips per week, during the period from December 18, 1895, to March 1, 1896, and which service was and is reasonably worth the sum of 20 cents per trip, aggregating the sum of.....	245.92
(*d.*) Transfers between station W and Brooklyn Heights Railway street line, a distance of 0.08 miles, 232 trips per week during the period from December 18, 1895, to March 1, 1896, and which service was and is reasonably worth the sum of 20c. per trip, aggregating the sum of.....	483.49
(*e.*) Transfers between Long Island City post office and Brooklyn Heights Railway street line, a distance of 0.61 miles, 36 trips and back per week, during the period from December 18, 1895, and March 1, 1896, which service was and is reasonably worth the sum of 40c. per trip, aggregating the sum of...	150.05
(*f.*) Transfers between Brooklyn general post office and street railway line at corner of Johnson and Ful-
10 ton streets (destined to station C), a distance of 0.10 miles, 132 trips per week, during the period	

from April 24, 1895, to March 1, 1896, and which service was and is reasonably worth the sum of 25c. per trip, aggregating the sum of..... 829.48

(*g.*) Transfer between Brooklyn general post office and street railway line at the corner of Johnson and Fulton streets (destined to Flatbush and Flathead post offices), a distance of 0.10 miles, 72 trips per week, during the period from January 1, 1895, to March 1, 1896, and which service was and is reasonably worth the sum of 20c. per trip, aggregating the sum of..... 856.80

(*h.*) Transfers between Brooklyn general post office and street railway line at the corner of Johnson and Fulton streets (destined to Bay Ridge and Fort Hamilton post offices), a distance of 0.02 miles, 48 trips a week, during the period from May 21, 1895, to March 1, 1896, which said service was and is reasonably worth the sum of 20c. per trip, aggregating the sum of..... ..... 389.38

(*i.*) Transfers between mailing room and basement of Brooklyn general post office, and Atlantic Avenue street railway line, a distance of 0.01 miles, 50 trips per week, during the period from June 25, 1894, to March 1, 1896, and which said service was and is reasonably worth the sum of $15 per week, aggregating the sum of..... ..... 1,313.40

That the said amounts last above mentioned aggregate the sum of $4,691.05

and that the whole thereof remains and is justly due and owing from the defendant to the claimant, no part of which has ever been paid.

Fifth. That on or about the 15th day of September, 1893, the then Postmaster General of the United States, acting for and
11 on behalf of the United States, advertised for proposals for transporting the mails in various cities, and among others on route No. 257001, being the covered regulation mail messenger, transfer and mail station service at the city of Omaha, State of Nebraska, a copy of which advertisement, so far as the same relates to the route last aforesaid, and so far as not already set forth in Exhibit A aforesaid, is hereunto annexed and made a part hereof and marked "Exhibit G."

That in pursuance of said advertisment and the matters therein set forth and contained, claimant, under the name of Luther Clay Slavens, Jr., filed with the department a proposal for the performance of said service, consisting of carrying the mails in said city of Omaha for the period named in said advertisment, to-wit: from the first day of July, 1894, to the 30th day of June, 1898, inclusive,

naming as the compensation to be received by claimant therefor the sum of $3,780.00 per annum; that said bid was duly accepted by the department, and that thereafter, to-wit: on the 21st day of December, 1893, the claimant, under the name of Luther Clay Slavens, Jr., entered into a contract with the United States for the performance of said service, during the period aforesaid, a true and correct copy of which said contract is hereto annexed, and made a part hereof and marked "Exhibit H," and that thereupon this claimant engaged in the carrying of the mails aforesaid under and in pursuance of the contract aforesaid.

That said contract provided that said claimant should perform the said mail service at and in the said city of Omaha, and required him to take the mail from and deliver it into the post-offices, the mail stations and cars at such points and at such hours, under the direction of the postmaster at Omaha, Nebraska, approved by the Postmaster General, as will secure dispatches and connections, and facilitate distributions.

Claimant further shows that during the period of his contract aforesaid, covering the transportation of mails on route No.
12 257001, at said city of Omaha, covering the period from July 1, 1894, to June 30, 1898, he was by the defendant required to and did in fact perform service under protest, not embraced within nor required by the terms of said contract as follows, to-wit:

(*a.*) Transfers between Omaha post office and South Omaha street railway line at 14th and Dodge streets, 14 round trips per day, during the period from March 25, 1895, to June 30, 1898, 169 weeks, and which service was and is reasonably worth the sum of $15 per week, aggregating the sum of...	$2,535.00
(*b.*) Transfers between South Omaha line of street railway and Dodge Street line of street railway, at 14th and Dodge streets, 14 transfers per day during the period from April 25th, 1895, to June 30th, 1898, 165 3-7 weeks, and which service was and is reasonably worth the sum of $15 per week, aggregating the sum of.....	2,481.42
(*c.*) Transfers between Union Depot street railway line and post office, 14 round trips per day during the period from April 25th, 1895, to June 30th, 1898, 165 3-7 weeks, and which service was and is reasonably worth the sum of.....	2,481.42
(*d.*) Transfers between Union Depot street railway line at 10th and Mason streets, and the Union depot, 14 round trips per day, during the period from April 25th, 1895, to June 30th, 1898, 165 3-7 weeks, aggregating the sum of.....	2,841.42
Claimant says that the items last above referred to, aggregating the sum of.....	$9,979.26

are justly due and owing to claimant from defendant for the service herein stated, and that no part thereof has been paid to him.

13 Sixth. Claimant further avers that he is justly entitled, as hereinbefore shown and set forth, to the moneys herein claimed to be due and owing from the United States to him, after allowing all just credits and set offs; that no assignment or transfer of the claims hereinbefore set forth, or any part thereof, or any interest thereunder, has been made to any one whomsoever by this claimant, or by any one in his behalf, and that he has at all times borne true allegiance to the United States.

Wherefore, the premises considered, this claimant demands judgment against the United States in the sum of sixty-four thousand, five hundred and sixty-two dollars and thirty-one cents ($64,562.31).

LUTHER CLAY SLAVENS, *Claimant.*

JEREMIAH M. WILSON,
Attorney for Claimant.

STATE OF MISSOURI, }
County of Jackson, } ss:

Before me, the undersigned, personally appeared Luther Clay Slavens, the claimant in the foregoing petition named, who being by me first duly sworn, on oath, says that he has read the foregoing petition by him subscribed, and is acquainted with the contents thereof; that the matters and things therein stated are true as he verily believes; that he, as such claimant aforesaid, is justly

14 entitled, as shown in the petition, to the moneys therein claimed to be due and owing to him from the United States, after allowing all just credits and set-offs; and that no assignment or transfer of the claims therein set forth, or any part thereof, or interest therein, has been made by him or by any one whomsoever on his behalf.

LUTHER CLAY SLAVENS.

Subscribed and sworn to before me this 12th day of July, 1900.

PORTER H. HOVEY,
[SEAL.] *Notary Public, Jackson County, Mo.*

My term expires May 26, 1901.

Post office address of claimant: Luther Clay Slavens, Kansas City, Mo.

Post office address of attorney for claimant: Jeremiah M. Wilson, 1416 F St. N. W., Washington, D. C.

15 "EXHIBIT A."

Proposals for Covered Regulation Wagon Mail Messenger, Transfer, and Mail Station Service.

POST OFFICE DEPARTMENT,
WASHINGTON, D. C., *September* 15, 1892.

Proposals will be received at the contract office of this department until 4 p. m. of December 1, 1892, for carrying the mails of the United States in the covered regulation wagons prescribed by the department, on the routes herein specified, being covered regulation wagon mail messenger, transfer, and mail station service in the cities hereinafter named, between the post offices and railroad stations, between the post offices and steamboat landings, between the post offices and mail stations, and between the several railroad stations, steamboat landings, and mail stations, as prescribed herein, for the term from July 1, 1893, to June 30, 1897, viz:

Boston, Mass.,
Providence, R. I.,
Brooklyn, N. Y.,
Buffalo, N. Y.,
New York, N. Y.,
Jersey City, N. J.
Philadelphia, Pa.,
Pittsburgh, Pa.,
Baltimore, Md.,
Washington, D. C.,
Richmond, Va.,

Decisions announced on or before December 21, 1892.

Contracts to be returned to the department, duly executed, within thirty days from date of acceptance of proposals.

16 *Route No.* 204001.

Covered regulation wagon mail messenger, transfer, and mail station service at Boston, Mass.

Schedule of Service in Operation August 15, 1892.

Mail messenger service.

From the general post office to the following named railroad stations or steamboat landings.	Distance.	Number of trips daily, except Sunday.	Number of trips on Sunday.	Number of additional trips a week.	Total number of trips a week.	Running time allowed from July 1, 1893.
	Miles.					*Min.*
Boston and Albany railroad	0.62	73	14	.....	452	20
Boston and Maine railroad (Southern division)	0.74	44	6	.....	270	20
Boston and Maine railroad (Eastern division)	0.74	50	9	.....	309	20
Boston and Maine railroad (Western division)	0.55	43	1	.....	259	20
Fitchburg railroad	0.78	25	2	.....	158	20
New York and New England railroad	0.35	16	2	.....	98	20
Old Colony railroad (Central division)	0.53	49	5	.....	299	20
Old Colony railroad (Providence division)	0.89	43	6	.....	264	25
Boston, Revere Beach and Lynn railroad	6.40	8	.....	.....	48	20
International steamship line (Commercial wharf)	0.60	.....	.....	.....	*4	20

To the general post office from the following named railroad stations or steamboat landings.	Distance.	Number of trips daily, except Sunday.	Number of trips on Sunday.	Number of additional trips a week.	Total number of trips a week.	Running time allowed from July 1, 1893.
	Miles.					*Min.*
Boston and Albany railroad	0.62	49	19	.....	313	20
Boston and Maine railroad (Southern division)	0.74	37	4	.....	226	20
Boston and Maine railroad (Eastern division)	0.74	40	9	.....	249	20
Boston and Maine railroad (Western division)	0.55	37	4	.....	226	20
Fitchburg railroad	0.78	20	3	.....	123	20
New York and New England railroad	0.35	11	2	.....	68	20
Old Colony railroad (Central division)	0.53	38	3	.....	231	20
Old Colony railroad (Providence division)	0.89	36	2	.....	218	25
Boston, Revere Beach and Lynn railroad	0.40	7	.....	.....	42	20
International steamship line (Commercial wharf)	0.60	.....	.....	.....	†4	20

*On Mondays, Tuesdays, Thursdays, and Fridays.
†On Tuesdays, Thursdays, Fridays, and Sundays.

17 *Route No.* 204,001—Continued.

Transfer service.

From the following named railroad stations.	To the following named railroad stations.	Distance.	Number of trips daily, except Sunday.	Number of trips on Sunday.	Number of additional trips a week.	Total number of trips a week.	Running time allowed from July 1, 1893.
		Miles.					*Min.*
Boston and Albany railroad.....	Boston and Maine railroad (Southern division).	1.40	6	.....	.....	36	20
Boston and Albany railroad.....	Boston and Maine railroad (Eastern division).	1.40	7	4	.....	46	20
Boston and Albany railroad.....	Boston and Maine railroad (Western division).	1.20	6	.....	.....	36	20
Boston and Albany railroad.....	Fitchburg railroad.....	1.40	2	.....	.....	12	20
Boston and Albany railroad.....	Old Colony railroad (Central division).	0.09	8	.....	.....	48	5
Boston and Albany railroad.....	Old Colony railroad (Providence division).	0.56	3	.....	.....	18	10
Boston and Albany railroad.....	New York and New England railroad.	0.25	1	.....	.....	6	10
Boston and Maine railroad (Southern division).	Boston and Albany railroad.....	1.40	4	.....	.....	24	20
Boston and Maine railroad (Southern division).	Boston and Maine railroad (Eastern division).	0.14	5	.....	.....	30	5
Boston and Maine railroad (Southern division).	Fitchburg railroad.....	0.15	1	.....	.....	6	10
Boston and Maine railroad (Eastern division).	Boston and Maine railroad (Southern division).	0.14	3	.....	.....	18	5
Boston and Maine railroad (Eastern division).	Boston and Maine railroad (Western division).	0.19	3	.....	.....	18	10
Boston and Maine railroad (Eastern division).	Fitchburg railroad.....	0.15	3	.....	.....	18	5
Boston and Maine railroad (Eastern division).	Boston and Albany railroad.....	1.40	9	3	.....	57	20
Boston and Maine railroad (Eastern division).	New York and New England railroad.	1.13	1	.....	.....	6	15
Boston and Maine railroad (Western division).	Boston and Maine railroad (Eastern division).	0.19	2	.....	.....	12	10
Old Colony railroad (Central division).	Boston and Albany railroad.....	0.09	8	.....	.....	48	5
Old Colony railroad (Providence division).	Boston and Maine railroad (Eastern division).	1.31	3	.....	.....	18	20
Old Colony railroad (Providence division).	Boston and Maine railroad (Western division).	1.12	3	.....	.....	18	20
Old Colony railroad (Providence division).	Boston and Maine railroad (Southern division).	1.31	2	.....	.....	12	20
Old Colony railroad (Providence division).	Old Colony railroad (Central division).	0.71	2	.....	.....	12	20
Old Colony railroad (Providence division).	Fitchburg railroad.....	1.42	1	.....	.....	6	20
Old Colony railroad (Providence division).	Boston and Albany railroad.....	0.56	4	.....	.....	24	10
Fitchburg railroad.....	Boston and Maine railroad (Eastern division).	0.15	2	.....	.....	12	5
Fitchburg railroad.....	Boston and Maine railroad (Western division).	0.34	1	.....	.....	6	10
Fitchburg railroad.....	Boston and Maine railroad (Southern division).	0.23	1	.....	.....	6	10
Fitchburg railroad.....	Old Colony railroad (Providence division).	1.42	1	.....	.....	6	30

18 *Route No.* 204,001—Continued.

Mail station service.

From—	By—	To—	Distance.	Number of trips daily, except Sunday.	Number of trips on Sunday.	Total number of trips a week.	Running time allowed from July 1, 1903.
			Miles.				*Min.*
General post office	Huntington Avenue R. R. station and Cambridgeport.	Cambridge	3.75	1	.....	6	52
Cambridge	Cambridgeport and Huntington Avenue R. R. station.	General post office	3.75	1	.....	6	52
General post office	Cambridgeport	Cambridge	3.25	6	1	37	45
Cambridge	Cambridgeport	General post office	3.25	6	1	37	45
General post office	Charlestown	Chelsea	3.00	7	1	43	45
Chelsea	Charlestown	General post office	3.00	7	1	43	45
General post office	Station A	Roxbury	2.50	10	1	61	45
Roxbury	Station A	General post office	2.50	10	1	61	45
General post office	East Cambridge	Somerville	2.50	8	1	49	45
Somerville	East Cambridge	General post office	2.50	8	1	49	45
General post office	.....	South Boston	1.75	9	1	55	30
South Boston	.....	General post office	1.75	9	1	55	30
General post office	.....	East Boston	1.25	10	1	61	30
East Boston	.....	General post office	1.25	10	1	61	30
General post office	.....	Back Bay	1.50	8	1	49	18
Back Bay	.....	General post office	1.50	8	1	49	18
Cambridge	.....	North Cambridge	0.75	1	.....	6	15
North Cambridge	.....	Cambridge	0.75	1	.....	6	15
Cambridgeport	Somerville	East Cambridge	1.50	1	.....	6	23
East Cambridge	Somerville	Cambridgeport	1.50	1	.....	6	23
Brighton	.....	Railroad station	1.00	7	1	43	15
Railroad station	.....	Brighton	1.00	7	1	43	15
General post office	Back Bay station and Station A.	Roxbury	2.50	4	.....	24	45
Roxbury	Station A and Back Bay station.	General post office	2.50	4	.....	24	45
General post office	Huntington Avenue R. R. station and Station A.	Roxbury	2.50	1	.....	6	45
Roxbury	Station A and Huntington Avenue R.R. station.	General post office	2.50	1	.....	6	45
Dorchester	.....	Harrison Sq. depot	0.66	14	2	86	10
Harrison Sq. depot	.....	Dorchester	0.66	14	2	86	10
Winthrop	.....	Railroad station	0.33	3	1	19	10
Railroad station	.....	Winthrop	0.33	3	1	19	10
Roslindale	.....	Railroad station	0.20	6	1	37	10
Railroad station	.....	Roslindale	0.20	6	1	37	10

Probable additional service.

Roxbury	Station A, Columbia Avenue R. R. station and Back Bay station.	Huntington Avenue R. R. station.	2.00	4	.....	24	30
Huntington Avenue R. R. station.	Back Bay station, Columbia Avenue R. R. station and Station A.	Roxbury	2.00	4	.....	24	30
Cambridge	Cambridgeport	Huntington Avenue R. R. station.	2.50	2	.....	12	30
Huntington Avenue R. R. station.	Cambridgeport	Cambridge	2.50	2	.....	12	30
Dorchester	.....	Roxbury	3.00	4	.....	24	40
Roxbury	.....	Dorchester	3.00	4	.....	24	40
Cambridge	Cambridgeport, Back Bay station and station A.	Roxbury	8.50	4	.....	24	80
Roxbury	Station A, Back Bay station and Cambridgeport.	Cambridge	8.50	4	.....	24	80

NOTE.—The postmaster estimates that there will be a material increase in the number of trips required between many of the points named in the foregoing schedules, by the commencement of the contract term.

An extra wagon, with driver, ready for immediate use, must be kept at the post office between the hours of 5 a. m. and 8 p. m., and at such other hours as the postmaster may direct.

Bond required with bid, $160,000.

19 *Instructions to Bidders.*

1. The foregoing schedules show the service required August 15, 1892, as near as can be stated. *Bidders must inform themselves of the amount and character of the service that will be required during the next contract term.*

The statements of probable additional service that may be necessary on the routes under this advertisement are given so that bidders may be as fully advised as possible of the amount of service likely to be required. It will not, however, limit the liability of the contractors to perform *all* service that may become necessary, *without additional pay.*

2. The contractors under this advertisement will be required to perform, *without additional compensation, any and all new or additional service that may be ordered from July 1, 1893, or at any time thereafter during the contract term,* whether between post offices and railroad stations, between post offices and steamboat landings, between post offices and mail stations, or between the several railroad stations, steamboat landings, and mail stations, now established or that may hereafter be established, whether caused by the establishment of new or by change of site of existing post offices, railroad stations, steamboat landings, or mail stations within said cities, or caused by the alteration of the routes made necessary for any other reason. Bids must be made with this distinct understanding, and must name the amount per annum for the whole service, and not by the trip.

3. There will be no diminution of compensation for partial dis-

continuance of service, or increase of compensation for new, additional, or changed service that may be ordered during the contract term; but the Postmaster General may discontinue the entire service on any route whenever the public interest, in his judgment, shall require such discontinuance, he allowing, as full indemnity to the contractor, one month's extra pay.

4. The Postmaster General may annul a contract for re-
20 peated failures; for violating the postal laws; for disobeying the instructions of the Post Office Department; for refusing to discharge a driver or any person having charge of the mail when required by the department; for transmitting commercial intelligence or matters which should go by mail contrary to the stipulations herein or for transporting persons so engaged; whenever the contractor shall become a postmaster, assistant postmaster, clerk in a post office, or member of Congress, and whenever, in the opinion of the Postmaster General, the service can not be safely continued or the laws maintained on the route.

Fines will be imposed for neglect of duty.

5. The Postmaster General may, in his discretion, continue in force, beyond its express terms for a period not exceeding six months, any contract made under this advertisement until a new contract with the same or other contractors shall be made.

6. The distances given are believed to be substantially correct, but no additional pay will be allowed should they be greater than herein stated. Bidders must inform themselves as to the distances, the running time, the weight of the mails, the condition of hills, streets, toll bridges, ferries, and obstructions of all kinds whereby expense may be incurred, and as to the *probable increase, additional service, or changes likely to be rendered necessary.* Claims for additional pay based on such grounds, or for alleged mistakes or misapprehensions as to the service required, or for bridges destroyed or ferries discontinued can not be considered.

7. Foreign mails in transit across the territory of the United States shall, within the meaning of this advertisement, be deemed and taken to be mails of the United States.

8. The transfer service shall include the conveyance of all post office supplies arriving for the city post office or for transit through the city.

9. Contractors will be required to convey on the driver's
21 seat of each wagon, whenever necessary, one railway post office clerk, a substitute or a messenger.

10. Drivers must be over sixteen years of age, of good moral character and able to read and write the English language. They must take the oath required by law, and must wear the prescribed cap or hat.

11. All service shall be performed in regulation wagons, unless otherwise mentioned in statement of route. Full particulars as to style and construction of wagons required may be obtained on application to the Second Assistant Postmaster General, Washington,

D. C. Wagons constructed according to the style adopted by the Post Office Department of a size about midway between the large two-horse and the large one-horse wagon, preserving the plan of the former, will be permitted, but for these at least two horses shall be used. The wagons shall be kept painted and varnished in a thorough manner, and ornamented according to specifications. They must also be frequently washed and kept clean and in good condition. New wagons are not required by the specifications, but only wagons of the prescribed pattern, *in first-class condition, and to be as substantially constructed as new wagons.* First-class horses shall be used. The wagons, besides being constructed in accordance with the plans and specifications, must be provided with an additional device in the nature of an iron rod connecting the doors with the driver's seat, so that the doors cannot be opened without the knowledge of the driver. A similar device is now in use on the wagons at New York, N. Y.

12. When mails are delayed in arrival, wagons must be kept at the depots or landings until the arrival of such mails and the same be conveyed to the post office without detention. Except in cases of accident, wagons containing mail must not be opened, or the mails therein contained changed while in transit. The mails must be carried inside of the wagons, and not on the outside or on the
22 seat with the driver, and in no case shall any person be allowed to ride inside of the wagon containing mail.

13. The equipment of the contractor shall be subject to monthly inspections, and the refusal or failure of any contractor to keep his wagons, horses and harness in good order and appearance, or to furnish proper drivers, so as to perform the service in a style creditable to the department, shall be sufficient cause for the annulment of his contract and the reletting of the service at his expense.

14. Specifications for cap and hat.—Cap—To be of all-wool blue flannel of good quality, three and one-fourth (3¼) inches high, solid leather fronts one and three-fourths (1¾) inches deep, with one (1) small regulation P. O. D. button on each side, a silver wreath in front inclosing the words " U. S. mail," and to have one oiled linen cover. Hat—From June 16th to September 15th of each year, in lieu of the cap, a straw hat with rim not to exceed three and one-half (3½) inches in width and a crown not to exceed four (4) inches in height may be worn. A silver wreath inclosing the words " U. S. mail " shall be placed on the front of the hat.

15. The wagons, horses, harness, and drivers are to be at all times subject to the approval and control of the postmaster; and the mails are to be taken from and delivered into the post offices, mail stations, steamboats and cars at such points and at such hours, under his direction, approved by the Postmaster General, as will secure proper dispatches and connections, and at the contractor's expense for tolls and ferriage.

16. The number of wagons required must be sufficient, in the

opinion of the postmaster, for the prompt and proper performance of the service.

17. The contractor will be required to provide and keep on hand a sufficient number of extra wagons to take the place of those which may be temporarily disabled, delayed, waiting for trains, or
23 withdrawn from service for repairs, or required by the increase of service, so that the service shall always be promptly performed in regulation wagons.

18. Every proposal must be accompanied by a bond with two or more sureties approved by a postmaster, and in cases where the amount of the bond exceeds five thousand dollars ($5,000) the approval must be by a postmaster of the first, second or third class.

19. Sureties on the bond of a bidder must take an oath before an officer qualified to administer oaths that they are the owners of real estate worth, in the aggregate, a sum double the amount of said bond, over and above all debts due and owing by them, and all judgments, mortgages and executions against them, after allowing all exemptions of every character whatever. A married woman will not be accepted as a surety, either on the bond of a bidder or upon a contract. Accompanying the bond of a bidder and as a part thereof, shall be a statement of the sureties under oath, showing the amount of real estate owned by them, brief descriptions thereof and its probable value, where it is situated and in what county and State the record evidence of their titles exists. Any surety who swears falsely to this statement is deemed by the law guilty of perjury, and is punishable as is prescribed by the law for that crime.

20. There should be but one route bid for in a proposal. Consolidated or combination bids ("proposing one sum for two or more routes") can not be considered.

21. Bidders are cautioned to forward their proposals in time to reach the department, or to file them, by the day and hour named in this advertisement, as bids received after that time will not be considered. If sent by mail or express ample time should be allowed for their transit, as they cannot be deemed to be received at the department until actually delivered at the contract office; neither can bids be considered which are without the bond, oath or certificate required by section 245, act of June 23, 1874, and
24 section 246, act of August 11, 1876. No withdrawal of a bid will be allowed unless the withdrawal is received twenty-four hours previous to 4 p. m., December 1, 1892.

22. No contract for carrying the mail shall be made with any person who has entered, or proposed to enter, into any combination to prevent the making of any bid for carrying the mail, or who has made any agreement or given or performed, or promised to give or perform, any consideration whatever to induce any person not to bid for any such contract.

23. In case of failure of the accepted bidder to execute a contract within the prescribed time, or of the abandonment of service during the contract term, the service will be relet at the expense of the

failing bidder or contractor, and any accepted bidder who shall wrongfully refuse or fail to enter into contract in due form, and to perform the service described in his proposal, may be deemed guilty of a misdemeanor, and on conviction thereof be fined and imprisoned therefor.

24. The Postmaster General reserves the right to suspend the award of contract on any route for a period not exceeding thirty days after the date fixed in this advertisement, with a corresponding allowance of time for the execution of contract, and to reject all bids on any route whenever in his judgment the interests of the service require it; and also to disregard the bids of failing contractors and bidders and also to disregard bids accompanied by bonds on which there appears as surety the name of a person who has been declared a failing contractor or bidder, or been barred from bidding for any reason whatever.

25. Postmasters are cautioned, under penalty of removal, not to approve the bond of any bidder before the proposal is completed and the bond is signed by the bidder and his sureties, and not until entirely satisfied of the sufficiency of the sureties. They are also cautioned not to divulge to any one the amount of any proposal certified by them. Doing so will be sufficient cause for their removal.

25 26. No postmaster, assistant postmaster, or clerk employed in any post office shall be a contractor, or concerned in a contract for carrying the mail.

27. Bidders are requested to use the blanks for proposals furnished by the department, which may be obtained at the post-office on each route herein advertised. *For information relative to the service and its requirements, bidders are requested to apply to the postmaster at the city where the service is to be performed.*

28. Proposals should be inclosed in envelopes sealed, and superscribed "Proposals for covered regulation wagon mail messenger, transfer, and mail station service, city of ——," and addressed to the Second Assistant Postmaster General, Post Office Department, Washington, D. C.

JOHN WANAMAKER,
Postmaster General.

26 "EXHIBIT B."

POST OFFICE DEPARTMENT,
WASHINGTON, D. C., *December 18th*, 1899.

I certify that the annexed is a true copy taken from the files and records of this department.

In testimony whereof I have hereto set my hand, and caused the seal of the Post Office Department to be affixed, the day and year above written.

[SEAL.]

C. EMORY SMITH,
Postmaster General.

(Ed. 11–19–'92.) Kansas City, Jackson Co., Mo.

UNITED STATES OF AMERICA:

Covered Regulation Wagon Mail Messenger, Transfer, and Mail Station Service in the City of Boston, Mass.

No. 204,001; $49,516 per annum.

This article of contract, made the 21st day of December, eighteen hundred and ninety-two, between the United States of America (acting in this behalf by the Postmaster General) and Luther Clay Slavens, contractor, and James W. L. Slavens, of Kansas City, Mo., and Hiram C. Slavens, of Kansas City, Mo., as his sureties:

Witnesseth, that whereas Luther Clay Slavens has been accepted as contractor for transporting the mails on route No. 204001, being the covered regulation wagon mail messenger, transfer, and mail station service at the city of Boston, Mass., under an advertisement issued by the Postmaster General on the 15th day of September, 1892, for such service, and which advertisement is herewith referred to and made by such reference a part of this contract, and all new or additional service of said kinds which may at any time dur-
27 ing the term of this contract be required in said city, at forty-nine thousand five hundred and sixteen dollars per year, for and during the term beginning the first day of July, 1893, and ending June 30, 1897:

Now, therefore, the said contractor and his sureties do, jointly and severally, undertake, covenant, and agree with the United States of America, and do bind themselves—

First. To carry said mail, using therefor wagons of the kind hereinafter described in sufficient number to transport the whole of said mail, whatever may be its size, weight, or increase during the term of this contract, and within the time fixed in the pamphlet advertisement of the Postmaster General dated September 15, 1892; and so to carry until said schedule is altered by the authority of the Postmaster General, as herein provided, and then to carry according to such altered schedule; to carry said mails in a safe and secure manner, free from wet and other injury, in substantial one or two horse wagons of sufficient capacity for the entire mail; the wagons to be employed in the performance of the service to be built with close bodies, paneled from bed or sill to the height of an ordinary wagon body; above to be built of plain wood, panel set off with moulding, lined with canvas, with curved roof; the rear shall open below by gate, to drop to a level with the floor of the wagon, to fasten by means of a catch when shut; above by door hinges or spring hinges, so arranged that it shall shut tight against the gate and lock. The double wagons in all cases and the single wagons whenever the proper performance of the service requires it, shall

have double doors in the side, extending from the paneled frame of the body to the drip of the roof; these doors shall be hung on spring hinges; the locks and hinges to be used on the doors of all wagons shall be of the same make and pattern as is on exhibition on the sample door in the office of the Second Assistant Postmaster General, at Washington, D. C. On the front shall be a seat for the driver, with footboard, trimmed and finished in leather.

28 The wagons shall be kept painted and varnished in a thorough manner, and ornamented according to specifications, and shall be frequently washed and kept clean, and at all times be kept in good order and appearance. The painting as to colors, ornaments, and design, both on running-gear and body, shall conform to the painting and ornamenting shown in the colored drawing on exhibition at the office of the Second Assistant Postmaster General, at Washington, D. C. The bodies of such wagons shall be made to conform to the lithographic drawings of the side and rear elevations of both single and double wagons hereto appended and made part of this contract, giving scale of dimensions. In case it is desired to increase or decrease the size of said wagons, such increase or decrease shall be made in exact proportion as to height and length, the Postmaster General reserving the right to vary at any time, when in his judgment the service may require it, the plan or form of wagons to be used in the service.

Second. To take the mail from, and deliver it into, the post offices, mail stations, and cars at such points, and at such hours, under the directions of the postmaster at Boston, Mass., approved by the Postmaster General, as will secure dispatches and connections and facilitate distribution, and at the contractor's expense for tolls and ferriage.

Third. To furnish the number of regulation wagons that, in the opinion of the postmaster at Boston, Mass., will be sufficient for the prompt and proper performance of the service, including extra wagons to take the place of those that may be temporarily unserviceable, delayed waiting for trains, or withdrawn from service for repairs.

Fourth. To be accountable and answerable in damages to the United States, or any person aggrieved, for the faithful performance by the said contractor of all the duties and obligations herein assumed, on which are now or may hereafter be imposed upon him by law in this behalf; and, further, to be so answerable and accountable in damages for the careful and faithful conduct of the

29 person or persons who may be employed by said contractor and to whom the said contractor shall commit the care and transportation of the mails, and for the faithful performance of the duties which are or may be by law imposed upon such person or persons in the care and transportation of said mails; and further, that said contractor shall not commit the care and transportation of the mail to any person under sixteen years of age, nor to any person not of good moral character, or who has not taken the oath pre-

scribed by law, or who cannot read and write the English language. Each driver shall wear when on duty the prescribed hat or cap described in the pamphlet advertisement of September 15, 1892.

Fifth. To discharge any driver or other person employed in performing mail service, whenever required by the Postmaster General so to do; not to transmit by themselves, or any of them, or any of their agents, or to be concerned in transmitting, commercial intelligence more rapidly than by mail; not to carry, otherwise than in the mail, letters, packets, or newspapers which should go by mail.

Sixth. To account for and pay over any money belonging to the United States which may come into the possession of the contractor, his sureties, or employés.

Seventh. The foreign mails in transit across the territory of the United States shall, within the meaning of this contract, be deemed and taken to be mails of the United States.

Eighth. To carry post-office blanks, mail-locks and mail-bags, and all other postal supplies.

Ninth. To convey, whenever requested so to do, one railway post-office clerk, a substitute, or a messenger, on the driver's seat of each wagon.

Tenth. To perform all new or additional or changed covered regulation wagon mail, messenger, transfer, and mail station service that the Postmaster General may order at the city of Boston, Mass., during the contract term, without additional compensation, whether caused by change of location of post office, stations, landing, or the establishment of others than those existing at the date hereof or rendered necessary, in the judgment of the Postmaster General, for any cause, and to furnish such advance wagons or extra wagons from time to time for special or advance trips as the Postmaster General may require, as a part of such new or additional service.

For which service when properly performed, and the evidence thereof shall have been filed in the office of the Second Assistant Postmaster General, the said Luther Clay Slavens, contractor, is to be paid by the United States the sum of forty-nine thousand five hundred and sixteen dollars a year, to-wit: Quarterly, in the months of November, February, May and August, through the postmaster at the city of Boston, Mass., or otherwise, at the option of the Postmaster General; said pay to be subject, however, to be reduced or discontinued by the Postmaster General, as hereinafter stipulated, or to be suspended and withheld in case of delinquency.

It is hereby stipulated and agreed by the said contractor and his sureties that the Postmaster General may change the schedule and termini of the route, vary the routes, increase, decrease, or extend the service thereon, without change of pay; and that the Postmaster General may discontinue the entire service whenever the public interest, in his judgment, shall require such discontinuance; but for a total discontinuance of service the contractor shall be allowed one month's extra pay as full indemnity.

And it is further stipulated and agreed, that for a failure to deliver not beyond the control of the contractor, or for any delay or interference with the prompt delivery of the mail at the post office, mail stations, depots, and landings, or for carrying the mail in a manner different or inferior to that hereinbefore specified; for suffering the mail to be wet, injured, lost, or destroyed; or for any other delinquency, or omission of duty under this contract; for all
31 or any of which the contractor shall forfeit, and there may be withheld from his pay, such sum as the Postmaster General may impose as fines or deductions, according to the nature and frequency of the failure or delinquency.

And it is further stipulated and agreed, that the Postmaster General may annul this contract for repeated failures; for violating the postal laws; for disobeying the instructions of the Post Office Department; for refusing to discharge a carrier or any other person employed in the performance of service, when required by the Department; for transmitting commercial intelligence or matter that should go by mail, contrary to the stipulations herein; for transporting persons so engaged as aforesaid; whenever the contractor shall become a postmaster, assistant postmaster, or member of Congress; and whanever, in the opinion of the Postmaster General, the service cannot be safely performed, the revenues collected, or the laws maintained.

And it is further stipulated and agreed, that such annulment shall not impair the right of the United States to claim damages from said contractor and his sureties under this contract; but such damages may, for the purpose of set-off or counter-claim, in the settlement of any claim of said contractor or his sureties against the United States, whether arising under this contract or otherwise, be assessed and liquidated by the Auditor of the Treasury for the Post Office Department.

And it is hereby further stipulated and agreed by the said contractor and his sureties that this contract may, in the discretion of the Postmaster General, be continued in force beyond its express terms for a period not exceeding six months, until a new contract with the same or another contractor shall be made by the Postmaster General.

And it is further stipulated, that no member of, or delegate to, Congress shall be admitted to any share or part of this contract, or to any benefit to arise therefrom.

And this contract is further to be subject to all the condi-
32 tions imposed by law, and the several acts of Congress relating to post offices and post roads.

In witness whereof, the said Postmaster General has caused the seal of the Post Office Department to be hereto affixed, and has caused the same to be attested by the signature of the Second Assistant Postmaster General in accordance with the act of Congress approved March 3, 1877 (sec. 3, 19 Stats., p. 335), and the said con-

tractor and his sureties have hereunto set their hands and seals the day and year set opposite their names, respectively.

By order of the Postmaster General:

G. F. STONE,
Acting Second Assistant Postmaster General.

Signed, sealed and delivered by the Second Assistant Postmaster General in the presence of

J. E. McCABE.

Signed this 8th day of Feb'y, 1893, and by the other parties hereto in the presence of

C. E. KEARNEY, JR.,
JOHN SHEA,
Witnesses.

Signed this 5th day of January, 1893.

LUTHER CLAY SLAVENS, [SEAL.]
Contractor.

Signed this 5th day of January, 1893.

JAMES W. L. SLAVENS, [SEAL.]

Signed this 5th day of January, 1893.

HIRAM C. SLAVENS, [SEAL.]
Sureties.

POST OFFICE AT KANSAS CITY, MO., *January 5th*, 1893.

I hereby certify that I am acquainted with James W. L. Slavens, of Kansas City, Mo., and Hiram C. Slavens, of Kansas City, Mo., and the condition of their property, and that after full investigation and inquiry, I am satisfied that they are good and sufficient sureties for the amount in the foregoing contract.

F. B. NOFSINGER, *Postmaster.*

33 *Certificate of the Oath of Mail Contractors and Carriers.*

Required by act of Congress of March 5th, 1874.

☞ (Take this oath *after* signing the foregoing contract.)

I, Luther Clay Slavens, being "employed in the care, custody, and conveyance of the mail" as contractor on route No. 204001, being covered regulation wagon mail messenger, transfer, and mail station service at Boston, State of Massachusetts, do solemnly swear that I will faithfully perform all the duties required of me, and ab-

stain from everything forbidden by the laws in relation to the establishment of post offices and post roads, within the United States; and that I will honestly and truly account for and pay over any money belonging to the said United States which may come into my possession or control. And I also further swear that I will support the Constitution of the United States: so help me God.

LUTHER CLAY SLAVENS, *Contractor.*

COUNTY OF JACKSON, } ss:
State of Missouri, }

Sworn before the subscriber, W. E. Benson, notary public, for the county and State aforesaid, this fifth day of January, A. D., 1893, and I also certify that the person above named is above the age of twenty-one years, to the best of my knowledge and belief.

W. E. BENSON, [SEAL.]
Notary Public.

34 "EXHIBIT C."

POST OFFICE DEPARTMENT,
OFFICE OF THE SECOND ASSISTANT POSTMASTER GENERAL,
RAILWAY ADJUSTMENT DIVISION,
WASHINGTON, D. C., *December* 9, 1895.

SIR: You are informed that the following order has this day been issued on route No. 204001—covered regulation wagon mail messenger, transfer and mail station service at Boston, Mass.,—

"From January 31, 1896, discontinue service, allowing contractor one month's extra pay."

Very respectfully,

C. NEILSON,
Second Assistant Postmaster General.

Mr. Luther Clay Slavens, Kansas City, Jackson Co., Mo.

35

"EXHIBIT D."

Route No. 207,001.

Covered regulation wagon mail messenger, transfer, and mail station service at Brooklyn, N. Y.

Schedule of Service in Operation August 15, 1892.

Mail messenger service.

From the general post office to the following named railroad stations or steamboat landings.	Distance.	Number of trips daily, except Sunday.	Number of trips on Sunday.	Number of additional trips a week.	Total number of trips a week.	Running time allowed from July 1, 1893.
	Miles.					*Min.*
New Jersey Annex wharf	0.80	12	5	.....	77	15
Flatbush Avenue Railroad depot	1.14	7	1	.....	43	20
Long Island railroad at Long Island City via stations S, W and G	8.10	1	.....	.....	6	105
Long Island railroad at Long Island City via stations W and G	5.04	1	.....	.....	6	60
Brooklyn, Bath and West End railroad *	3.66	3	.....	.....	18	45

To the general post office from the following named railroad stations or steamboat landings.	Distance.	Number of trips daily except Sunday.	Number of trips on Sunday.	Number of additional trips a week.	Total number of trips a week.	Running time allowed from July 1, 1893.
	Miles.					*Min.*
New Jersey Annex wharf	0.80	15	3	.....	93	15
Flatbush Avenue Railroad depot	1.14	7	.....	.....	42	20
Long Island railroad at Long Island City via stations G and W	5.04	2	.....	.....	12	60
Brooklyn, Bath and West End railroad *	3.66	3	.....	.....	18	45

* From October 1 to May 31 twice daily, except Sunday.

36 *Route No.* 207,001—Continued.

Transfer service.

From the following named railroad stations.	To the following named railroad stations.	Distances.	Number of trips daily, except Sunday.	Number of trips on Sunday.	Number of additional trips a week.	Total number of trips a week.	Running time allowed from July 1, 1903.
		Miles.					*Min.*

No transfer service now required.

Mail station service.

From—	To—	Distances.	Number of trips daily, except Sunday.	Number of trips on Sunday.	Total number of trips a week.	Running time allowed from July 1, 1903.
		Miles.				*Min.*
Station B	General post office	2.40	11	4	70	30
General post office	Station B	2.40	11	4	70	30
Station S	General post office	3.57	10	3	63	45
General post office	Station S	3.57	11	3	69	45
Station V	General post office	2.35	11	3	69	30
General post office	Station V	2.35	11	3	69	30
Station W	General post office *	2.57	11	4	70	35
General post office	Station W *	2.57	11	4	70	35
Station G	Station W *	1.65	8	2	50	25
Station W	Station G *	1.65	9	3	57	25
General post office at New York, N. Y.	General post office at Brooklyn, N. Y	1.63	26	9	165	27
General post office at Brooklyn, N. Y.	General post office at New York, N. Y.	1.63	27	8	170	27
General post office	Station E *	5.38	6	2	38	(†)
Station E	General post office *	5.38	6	2	38	(†)
General post office	Woodhaven, N. Y *	8.25	3	.....	18	(‡)
Woodhaven	General post office *	8.25	3	.....	18	(‡)

* For certain trips the contractor will be allowed to perform service between the general post office and stations G, W, and S on the surface and elevated roads, and service between the general post office, station E, and Woodhaven, N. Y., on the surface, steam cars, or elevated road.
† A reasonable time will be allowed, not exceeding 60 minutes.
‡ A reasonable time will be allowed, not exceeding 100 minutes.

Bond required with bid, $40,000.

37 "EXHIBIT E."

(Ed. 11-19, '92.) Kansas City, Jackson Co., Mo.

UNITED STATES OF AMERICA:

Covered Regulation Wagon Mail Messenger, Transfer, and Mail Station Service in the City of Brooklyn, N. Y.

No. 207,001; $18,934 per annum.

This article of contract, made the 21st day of December, eighteen hundred and ninety-two, between the United States of America (acting in this behalf by the Postmaster General) and Luther Clay Slavens, contractor, and James W. L. Slavens, of Kansas City, Mo., and Hiram C. Slavens, of Kansas City, Mo., as his sureties:

Witnesseth, that whereas Luther Clay Slavens has been accepted as contractor for transporting the mails on route No. 207001, being the covered regulation wagon mail messenger, transfer and mail station service at the city of Brooklyn, N. Y., under an advertisement issued by the Postmaster General on the 15th day of September, 1892, for such service, and which advertisement is herewith referred to and made by such reference a part of this contract, and all new or additional service of said kinds which may at any time during the term of this contract be required in said city, at eighteen thousand, nine hundred and thirty-four dollars per year, for and during the term beginning the first day of July, 1893, and ending June 30, 1897:

Now, therefore, the said contractor and his sureties do, jointly and severally, undertake, covenant and agree with the United States of America, and do bind themselves—

First. To carry said mail, using therefor wagons of the kind hereinafter described in sufficient number to transport the whole of said mail, whatever may be its size, weight, or increase during the term of this contract, and within the time fixed in the pamphlet
38 advertisement of the Postmaster General dated September 15th, 1892; and so to carry until said schedule is altered by the authority of the Postmaster General, as herein provided, and then to carry according to such altered schedule; to carry said mails in a safe and secure manner, free from wet and other injury, in substantial one or two horse wagons of sufficient capacity for the entire mail; the wagons to be employed in the performance of the service to be built with close bodies, paneled from bed or sill to the height of an ordinary wagon body; above to be built of plain wood, panel set off with moulding, lined with canvas, with curved roof; the rear shall open below by gate, to drop to a level with the floor of the wagon, to fasten by means of a catch when shut; above by door

hinges or spring hinges, so arranged that it shall shut tight against the gate and lock. The double wagons in all cases and the single wagons whenever the proper performance of the service requires it, shall have double doors in the side, extending from the paneled frame of the body to the drip of the roof; these doors shall be hung on spring hinges; the locks and hinges to be used on the doors of all wagons shall be of the same make and pattern as is on exhibition on the sample door in the office of the Second Assistant Postmaster General, at Washington, D. C. On the front shall be a seat for the driver, with footboard, trimmed and finished in leather. The wagons shall be kept painted and varnished in a thorough manner, and ornamented according to specifications, and shall be frequently washed and kept clean, and at all times be kept in good order and appearance. The painting as to colors, ornaments and design, both on running-gear and body, shall conform to the painting and ornamenting shown in the colored drawing on exhibition at the office of the Second Assistant Postmaster General, at Washington, D. C. The bodies of such wagons shall be made to conform to the lithographic drawings of the side and rear elevations of both single and double wagons hereto appended and made part of this con-
39 tract, giving scale of dimensions. In case it is desired to increase or decrease the size of said wagons, such increase or decrease shall be made in exact proportion as to height and length, the Postmaster General reserving the right to vary at any time, when in his judgment the service may require it, the plan or form of wagons to be used in the service.

Second. To take the mail from, and deliver it into, the post offices mail stations, and cars at such points, and at such hours, under the directions of the postmaster at Brooklyn, N. Y., approved by the Postmaster General, as will secure dispatches and connections and facilitate distribution, and at the contractor's expense for tolls and ferriage.

Third. To furnish the number of regulation wagons that, in the opinion of the postmaster at Brooklyn, N. Y., will be sufficient for the prompt and proper performance of the service, including extra wagons to take the place of those that may be temporarily unserviceable, delayed, waiting for trains, or withdrawn from service for repairs.

Fourth. To be accountable and answerable in damages to the United States, or any person aggrieved, for the faithful performance by the said contractor of all the duties and obligations herein assumed, or which are now or may hereafter be imposed upon him by law in this behalf; and, further, to be so answerable and accountable in damages for the careful and faithful conduct of the person or persons who may be employed by said contractor, and to whom the said contractor shall commit the care and transportation of the mails, and for the faithful performance of the duties which are, or may be by law, imposed upon such person or persons in the care and transportation of said mails, and, further, that said contractor

shall not commit the care and transportation of the mail to any person under sixteen years of age, nor to any person not of good moral character or who has not taken the oath prescribed by law, or who cannot read and write the English language. Each
40 driver shall wear when on duty the prescribed cap or hat described in the pamphlet advertisement of September 15, 1892.

Fifth. To discharge any driver, or other person employed in performing mail service, whenever required by the Postmaster General so to do; not to transmit by themselves, or any of them, or any of their agents, or to be concerned in transmitting commercial intelligence more rapidly than by mail; not to carry, otherwise than in the mail, letters, packets or newspapers which should go by mail.

Sixth. To account for and pay over any money belonging to the United States which may come into the possession of the contractor, his sureties, or employees.

Seventh. That foreign mails in transit across the territory of the United States shall, within the meaning of this contract, be deemed and taken to be mails of the United States.

Eighth. To carry post-office blanks, mail-locks and mail-bags, and all other postal supplies.

Ninth. To convey, whenever requested so to do, one railway post office clerk, a substitute or a messenger, on the driver's seat of each wagon.

Tenth. To perform all new or additional or changed covered regulation wagon mail messenger, transfer, and mail station service that the Postmaster General may order at the city of Brooklyn, New York, during the contract term, without additional compensation, whether caused by change of location of post office, station, landing, or the establishment of others than those existing at the date hereof, or rendered necessary, in the judgment of the Postmaster General, for any cause, and to furnish such advance wagons or extra wagons from time to time for special or advance trips as the Postmaster General may require, as a part of such new or additional service.

For which service, when properly performed, and the evidence thereof shall have been filed in the office of the Second As-
41 sistant Postmaster General, the said Luther Clay Slavens, contractor, is to be paid by the United States the sum of eighteen thousand nine hundred and thirty-four dollars a year, to-wit: quarterly, in the months of November, February, May and August, through the postmaster at the city of Brooklyn, N. Y., or otherwise, at the option of the Postmaster General; said pay to be subject, however, to be reduced or discontinued by the Postmaster General, as hereinafter stipulated, or to be suspended and withheld in case of delinquency.

It is hereby stipulated and agreed by the said contractor and his sureties that the Postmaster General may change the schedule and termini of the route, vary the routes, increase, decrease, or extend the service thereon, without change of pay; and that the Postmas-

ter General may discontinue the entire service whenever the public interest, in his judgment, shall require such discontinuance; but for a total discontinuance of service the contractor shall be allowed one month's extra pay as full indemnity.

And it is further stipulated and agreed, that for a failure to deliver not beyond the control of the contractor, or for any delay or interference with the prompt delivery of the mail at the post office, mail stations, depots, and landings, or for carrying the mail in a manner different or inferior to that hereinbefore specified; for suffering the mail to be wet, injured, lost or destroyed; or for any other delinquency or omission of duty under this contract; for all or any of which the contractor shall forfeit, and there may be withheld from his pay, such sum as the Postmaster General may impose as fines or deductions, according to the nature and frequency of the failure or delinquency.

And it is further stipulated and agreed, that the Postmaster General may annul this contract for repeated failures; for violating the postal laws; for disobeying the instructions of the Post Office Department; for refusing to discharge a carrier or any other person employed in the performance of service, when required by
42 the department; for transmitting commercial intelligence or matter that should go by mail, contrary to the stipulations herein; for transporting persons so engaged as aforesaid; whenever the contractor shall become a postmaster, assistant postmaster, or member of Congress; and whenever, in the opinion of the Postmaster General, the service cannot be safely performed, the revenues collected, or the laws maintained.

And it is further stipulated and agreed, that such annulment shall not impair the right of the United States to claim damages from said contractor and his sureties under this contract; but such damages may, for the purpose of set-off or counter-claim, in the settlement of any claim of said contractor or his sureties against the United States, whether arising under this contract or otherwise, be assessed and liquidated by the Auditor of the Treasury for the Post Office Department.

And it is hereby further stipulated and agreed by the said contractor and his sureties that this contract may, in the discretion of the Postmaster General, be continued in force beyond its express terms for a period not exceeding six months, until a new contract with the same or another contractor shall be made by the Postmaster General.

And it is further stipulated, that no member of or delegate to, Congress shall be admitted to any share or part of this contract, or to any benefit to arise therefrom.

And this contract is further to be subject to all the conditions imposed by law, and the several acts of Congress relating to post offices and post roads.

In witness whereof, the said Postmaster General has caused the seal of the Post Office Department to be hereto affixed, and has

caused the same to be attested by the signature of the Second Assistant Postmaster General, in accordance with the act of Congress approved March 3, 1877 (sec. 3, 19 Stats., p. 335), and the said contractor and his sureties have hereunto set their hands and seals the day and year set opposite their names, respectively.

43 By order of the Postmaster General:

G. F. STONE,
Acting Second Assistant Postmaster General.

Signed, sealed, and delivered by the Second Assistant Postmaster General in the presence of
J. E. McCABE.

Signed this 8th day of February, 1893, and by the other parties hereto in the presence of
C. E. KEARNEY, JR.,
JOHN SHEA,
Witnesses.

Signed this 5th day of January, 1893.
LUTHER CLAY SLAVENS, [SEAL.]
Contractor.

Signed this 5th day of January, 1893.
JAMES W. L. SLAVENS, [SEAL.]

Signed this 5th day of January, 1893.
HIRAM C. SLAVENS, [SEAL.]
Sureties.

POST OFFICE AT KANSAS CITY, MO., *January 5th*, 1893.

I hereby certify that I am acquainted with James W. L. Slavens, of Kansas City, Mo., and Hiram C. Slavens, of Kansas City, Mo., and the condition of their property, and that, after full investigation and inquiry, I am satisfied that they are good and sufficient sureties for the amount in the foregoing contract.

F. B. NOFSINGER, *Postmaster.*

Certificate of the Oath of Mail Contractors and Carriers.

Required by act of Congress of March 5, 1874.

☞ (Take this oath *after* signing the foregoing contract.)

I, Luther Clay Slavens, being "employed in the care, custody, and conveyance of the mail" as contractor on route No. 207001,
44 being covered regulation wagon mail messenger, transfer, and mail station service at Brooklyn, State of New York, do solemnly swear that I will faithfully perform all the duties required of me, and abstain from everything forbidden by the laws in relation to the establishment of post offices and post roads within the United States; and that I will honestly and truly account for

and pay over any money belonging to the said United States which may come into my possession or control. And I also further swear that I will support the Constitution of the United States: so help me God.

LUTHER CLAY SLAVENS, *Contractor.*

COUNTY OF JACKSON, } ss:
State of Missouri, }

Sworn before the subscriber, W. E. Benson, notary public, for the county and State aforesaid, this fifth day of January, A. D. 1893, and I also certify that the person above named is above the age of twenty-one years, to the best of my knowledge and belief.

W. E. BENSON, [SEAL.]
Notary Public.

A true copy:
G. F. STONE,
Chief Clerk to Second Ass't P. M. Gen'l.

45 "EXHIBIT F."

Route 207,001, order No. 1432.

POST OFFICE DEPARTMENT, *January* 21, 1896.

Discontinue service from February 29th, 1896, and allow contractor one month's extra pay.

(Signed) WM. L. WILSON,
Postmaster General.

46 "EXHIBIT G."

Proposals for Covered Regulation Wagon Mail Messenger, Transfer, and Mail Station Service.

POST OFFICE DEPARTMENT,
WASHINGTON, D. C., *September* 15, 1893.

Proposals will be received at the contract office of this department until 4 p. m. of December 1, 1893, for carrying the mails of the United States in the covered regulation wagons prescribed by the department, on the routes herein specified, being covered regulation wagon mail messenger, transfer, and mail station service in the cities hereinafter named, between the post-offices and railroad stations, between the post-offices and steamboat landings, between the post-offices and mail stations, and between the several railroad stations, steamboat landings, and mail stations, as prescribed herein, for the term from July 1, 1894, to June 30, 1898, viz:

New Orleans, La. Omaha, Nebr.
San Francisco, Cal.

Decisions announced on or before December 21, 1893.

Contracts to be returned to the department, duly executed, within thirty days from date of acceptance of proposals.

47 *Route No.* 257,001.

Covered regulation wagon, mail messenger, transfer, and mail station service at Omaha, Nebr.

Schedule of Service in Operation August 15, 1893.

Mail messenger service.

From the general post office to the following named railroad stations.	Distance.	Number of trips daily, except Sunday.	Number of trips on Sunday.	Number of additional trips a week.	Total number of trips a week.	Running time allowed from July 1, 1894.
	Miles.					*Min.*
Union depot	1.12	21	16	.....	142	30
Burlington and Missouri River R. R. in Nebraska.						
Chicago, Burlington and Quincy railroad.						
Chicago, Milwaukee and St. Paul railroad.						
Chicago and Northwestern railroad.						
Chicago, Rock Island and Pacific railroad.						
Kansas City, St. Joseph and Council Bluffs R. R.						
Sioux City and Pacific railroad.						
Union Pacific railroad.						
Wabash railroad.						
Webster Street depot	0.51	7	6	.....	48	20
Chicago, St. Paul, Minneapolis and Omaha R. R.						
Fremont, Elkhorn and Missouri Valley railroad.						
Missouri Pacific railroad.						

To the general post office from the following named railroad stations.	Distance.	Number of trips daily, except Sunday.	Number of trips on Sunday.	Number of additional trips a week.	Total number of trips a week.	Running time allowed from July 1, 1894.
	Miles.					*Min.*
Union depot	1.12	23	18	.....	156	30
Burlington and Missouri River R. R. in Nebraska.						
Chicago, Burlington and Quincy railroad.						
Chicago, Milwaukee and St. Paul railroad.						
Chicago and Northwestern railroad.						
Chicago, Rock Island and Pacific railroad.						
Kansas City, St. Joseph and Council Bluffs R. R.						
Sioux City and Pacific railroad.						
Union Pacific railroad.						
Wabash railroad.						
Webster Street depot	0.51	9	6	.....	60	20
Chicago, St. Paul, Minneapolis and Omaha R. R.						
Fremont, Elkhorn and Missouri Valley railroad.						
Missouri Pacific railroad.						

48 *Route No.* 257,001—Continued.

Transfer service.

From the following named railroad station.	To the following named railroad station.	Distance.	Number of trips daily, except Sunday.	Number of trips on Sunday.	Number of additional trips a week.	Total number of trips a week.	Running time allowed from July 1, 1894.
Union depot	Webster Street depot	*Miles.* 1.58	1	1	.....	7	*Min.* 30

Mail station service.

From—	By—	To—	Distance.	Number of trips daily, except Sunday.	Number of trips on Sunday.	Total number of trips a week.	Running time allowed from July 1, 1894.
			Miles.				*Min.*

No mail station service now in operation.
Bond required with bid, $10,000.00.

49 "EXHIBIT H."

POST OFFICE DEPARTMENT,
WASHINGTON, D. C., *December* 18*th*, 1899.

I certify that the annexed is a true copy taken from the files and records of this department.

In testimony whereof I have hereto set my hand and caused the seal of the Post Office Department to be affixed, the day and year above written.

C. EMORY SMITH,
Postmaster General.

(Form No. 2605.)

Contract for Mail Service.

Covered regulation wagon mail messenger, transfer, and mail station service in the city of Omaha, Neb.

Route No. 257,001; annual rate of pay, $3,780.

Contractor's address: Kansas City, Jackson Co., State of Missouri.

This article of contract, made the 21 day of December, eighteen hundred and ninety-three, between the United States of America (acting in this behalf by the Postmaster General) and Luther C. Slavens, Jr., contractor, and James W. L. Slavens, of Kansas City, Mo., and Hiram C. Slavens, of Kansas City, as his sureties:

Witnesseth, that whereas Luther C. Slavens, Jr., has been accepted as contractor for transporting the mails on route No. 257001, being the covered regulation wagon mail messenger, transfer, and mail station service at the city of Omaha, Nebr., under an advertisement issued by the Postmaster General on the 15th day of September, 1893, for such service, and which advertisement is herewith
50 referred to and made by such reference a part of this contract, and all new or additional service of said kinds which may at any time during the term of this contract be required in said city, at three thousand seven hundred and eighty dollars per year, for and during the term beginning the 1st day of July, 1894, and ending June 30, 1898.

Now, therefore, the said contractor and his sureties do, jointly and severally, undertake, covenant, and agree with the United States of America, and do bind themselves—

First. To carry said mail, using therefor wagons of the kind hereinafter described in sufficient number to transport the whole of said mail, whatever may be its size, weight or increase during the term of this contract, and within the time fixed in the pamphlet advertisement of the Postmaster General dated September 15, 1893; and so to carry until said schedule is altered by the authority of the Postmaster General, as herein provided, and then to carry according to such altered schedule; to carry said mails in a safe and secure manner, free from wet or other injury, in substantial one or two horse wagons of sufficient capacity for the entire mail; the wagons to be employed in the performance of the service to be built with closed bodies, paneled from bed or sill to the height of an ordinary wagon body; above to be built of plain wood, panel set off with molding, lined with canvas, with curved roof; the rear shall open below by gate, to drop to a level with the floor of the wagon, to fasten by means of a catch when shut; above by door hinges or spring

hinges, so arranged that it shall shut tight against the gate and shall lock. The double wagons in all cases, and the single wagons whenever the proper performance of the service requires it, shall have double doors in the side, extending from the panel frame of the body to the drip of the roof; these doors shall be hung on spring hinges; the locks and hinges to be used on the doors of all wagons shall be of the same make and pattern as is on exhibition on the sample door in the office of the Second Assistant Postmaster General, at Wash-
51 ington, D. C. On the front shall be a seat for the driver, with footboard, trimmed and finished in leather. The wagons shall be kept painted and varnished in a thorough manner, and ornamented according to specifications, and shall be frequently washed and kept clean, and at all times be kept in good order and appearance. The painting, as to colors, ornaments, and design, both on running-gear and body, shall conform to the painting and ornamenting shown in the colored drawing on exhibition at the office of the Second Assistant Postmaster General, at Washington, D. C. The bodies of such wagons shall be made to conform to the lithographic drawings of the side and rear elevations of both single and double wagons hereto appended and made part of this contract, giving scale of dimensions. In case it is desired to increase or decrease the size of said wagons, such increase or decrease shall be made in exact proportion as to height and length, the Postmaster General reserving the right to vary at any time, when in his judgment the service may require it, the plan or form of wagons to be used in the service, provided the changes in plan or form of wagons do not involve the discontinuance of the wagons then in use and approved by him.

Second. To take the mail from, and deliver it into the post offices, mail stations, and cars at such points, and at such hours, under the directions of the postmaster at Omaha, Nebr., approved by the Postmaster General, as will secure dispatches and connections and facilitate distribution, and at the contractor's expense for tolls and ferriage.

Third. To furnish the number of regulation wagons that, in the opinion of the postmaster at Omaha, Nebr., will be sufficient for the prompt and proper performance of the service, including extra wagons to take the place of those that may be temporarily unserviceable, delayed waiting for trains, or withdrawn from service for repairs.

Fourth. To be accountable and answerable in damages to the United States, or any person aggrieved, for the faithful per-
52 formance by the said contractor of all the duties and obligations herein assumed, or which are now or may hereafter be imposed upon him by law in this behalf; and, further, to be so answerable and accountable in damages for the careful and faithful conduct of the person or persons who may be employed by said contractor and to whom the said contractor shall commit the care and transportation of the mails, and for the faithful performance of the

duties which are or may be by law imposed upon such person or persons in the care and transportation of said mails; and, further, that said contractor shall not commit the care and transportation of the mail to any person under sixteen years of age, nor to any person not of good moral character, or who has not taken the oath prescribed by law, or who can not read and write the English language. Each driver shall wear when on duty the prescribed cap or hat described in the pamphlet advertisement of September 15th, 1893.

Fifth. To discharge any driver or other person employed in performing mail service, whenever required by the Postmaster General so to do; not to transmit by themselves, or any of them, or any of their agents, or be concerned in transmitting commercial intelligence more rapidly than by mail; not to carry otherwise than in the mail, letters, packets or newspapers which should go by mail.

Sixth. To account for and pay over any money belonging to the United States which may come into the possession of the contractor, his sureties or employés.

Seventh. That foreign mails in transit across the territory of the United States shall, within the meaning of this contract, be deemed and taken to be mails of the United States.

Eighth. To carry post office blanks, mail locks and mail bags, and all other postal supplies.

Ninth. To convey, whenever requested so to do, one railway post office clerk, a substitute, or a messenger, on the driver's seat of each wagon.

53 Tenth. To perform all new or additional or changed covered regulation wagon mail messenger, transfer, and mail station service that the Postmaster General may order at the city of Omaha, Nebr., during the contract term, without additional compensation, whether caused by change of location of post office, stations, landing, or the establishment of others than those existing at the date hereof, or rendered necessary, in the judgment of the Postmaster General, for any cause, and to furnish such advance wagons or extra wagons from time to time for special or advanced trips as the Postmaster General may require, as a part of such new or additional service.

For which service, when properly performed, and the evidence thereof shall have been filed in the office of the Second Assistant Postmaster General, the said Luther C. Slavens, Jr., contractor, is to be paid by the United States the sum of three thousand, seven hundred and eighty dollars a year, to-wit: quarterly, in the months of November, February, May and August, through the postmaster at the city of Omaha, Nebr., or otherwise, at the option of the Postmaster General; said pay to be subject, however, to be reduced or discontinued by the Postmaster General as hereinafter stipulated, or to be suspended and withheld in the case of delinquency.

It is hereby stipulated and agreed by the said contractor and his

sureties that the Postmaster General may change the schedule and termini of the route, vary the routes, increase, decrease, or extend the service thereon, without change of pay; and that the Postmaster General may discontinue the entire service whenever the public interest, in his judgment, shall require such discontinuance; but for a total discontinuance of service the contractor shall be allowed one month's extra pay as full indemnity.

And it is further stipulated and agreed, that for a failure to deliver not beyond the control of the contractor, or for any de-
54 lay or interference with the prompt delivery of the mail at the post office, mail stations, depots and landings, or for carrying the mail in a manner different or inferior to that hereinbefore specified; for suffering the mail to be wet, injured, lost, or destroyed; or for any other delinquency or omission of duty under this contract; for all or any of which the contractor shall forfeit, and there may be withheld from his pay, such sum as the Postmaster General may impose as fines or deductions, according to the nature and frequency of the failure or delinquency.

And it is further stipulated and agreed that the Postmaster General may annul this contract for repeated failures; for violating the postal laws; for disobeying the instructions of the Post Office Department; for refusing to discharge a carrier or any other person employed in the performance of service, when required by the department; for transmitting commercial intelligence or matter that should go by mail, contrary to the stipulations herein; for transporting persons so engaged as aforesaid; whenever the contractor shall become a postmaster, assistant postmaster, or member of Congress; and whenever, in the opinion of the Postmaster General, the service can not be safely performed, the revenues collected, or the laws maintained.

And it is further stipulated and agreed, that such annulment shall not impair the right of the United States to claim damages from said contractor and his sureties under this contract; but such damages may, for the purpose of set-off or counter-claim, in the settlement of any claim of said contractor or his sureties against the United States, whether arising under this contract or otherwise, be assessed and liquidated by the Auditor of the Treasury for the Post Office Department.

And it is hereby further stipulated and agreed by the said contractor and his sureties that this contract may, in the discretion of the Postmaster General, be continued in force beyond its
55 express terms for a period not exceeding six months until a new contract with the same or another contractor shall be made by the Postmaster General.

And it is further stipulated, that no member of, or delegate to, Congress shall be admitted to any share or part of this contract or to any benefit to arise therefrom.

And this contract is further to be subject to all the conditions im-

posed by law and the several acts of Congress relating to post offices and post roads.

In witness whereof, the said Postmaster General has caused the seal of the Post Office Department to be hereto affixed, and has caused the same to be attested by the signature of the Second Assistant Postmaster General, in accordance with the act of Congress approved March 3, 1877 (section 3, 19 Stats., p. 335), and the said contractor and his sureties have hereunto set their hands and seals the day and year set opposite their names, respectively.

By order of the Postmaster General.

J. LOWRIE BELL,
Second Assistant Postmaster General.

Signed, sealed, and delivered by the Second Assistant Postmaster General in the presence of

J. E. McCABE.

Signed this 9th day of Jan'y, 1894, and by the other parties hereto in the presence of

H. C. REESE,
H. H. WOOD,
Witnesses.

Signed this 27th day of December, 1893.

LUTHER C. SLAVENS, JR., [SEAL.]
Contractor.

Signed this 27th day of December, 1893.

JAMES W. L. SLAVENS, [SEAL.]

Signed this 27th day of December, 1893.

HIRAM C. SLAVENS, [SEAL.]
Sureties.

56 POST OFFICE AT KANSAS CITY, MO.,
December 27th, 1893.

I hereby certify that I am acquainted with James W. L. Slavens, of Kansas City, Mo., and Hiram C. Slavens, of Kansas City, Mo., and the condition of their property, and that, after full investigation and inquiry, I am satisfied that they are good and sufficient sureties for the amount in the foregoing contract.

F. B. NOFSINGER, *Postmaster.*

NOTE.—This certificate must be signed by the postmaster and not by any other person.

IMPORTANT.—The oath on the next page must be taken by the contractor.

Certificate of the Oath of Mail Contractors and Carriers.

Required by act of Congress of March 5, 1874.

☞(Take this oath *after* signing the foregoing contract.)

I, Luther C. Slavens, Jr., being "employed in the care, custody, and conveyance of the mail" as contractor on route No. 257001, being covered regulation wagon mail messenger, transfer, and mail station service at Omaha, State of Nebraska, do solemnly swear that I will faithfully perform all the duties required of me, and abstain from everything forbidden by the laws in relation to the establishment of post offices and post roads within the United States; and that I will honestly and truly account for and pay over any money belonging to the said United States which may come into my possession or control. And I also further swear that I will support the Constitution of the United States: so help me God.

LUTHER C. SLAVENS, JR., *Contractor.*

COUNTY OF JACKSON, } ss:
State of Missouri, }

Sworn before the subscriber, W. E. Benson, a notary public for the county and State aforesaid, this 27th day of December, A. D. 1893, and I also certify that the person above named is above the age of twenty-one years, to the best of my knowledge and belief.

W. E. BENSON, [SEAL.]
Notary Public.

57 II.—*Amendment to Petition.*

Comes now the claimant, by his attorney and amends the petition by him heretofore filed herein, as follows, to wit:

Paragraph third:

On printed page 4, (fifteenth line from bottom,) strike out the amount "$32,128."; and in lieu thereof, insert: "to wit, $32,339."

Paragraph fourth:

On printed page 8, (fifteenth line from bottom,) strike out the amount "$16,064."; and, in lieu thereof, insert: "to wit, $18,445.33."

On printed page 10, sub-paragraph (*g*), strike out the amount "20%;" and, in lieu thereof, insert: "25%."

On printed page 10, sub-paragraph (*h*), strike out the distance there given as ".02 miles" and, in lieu thereof, insert: ".10 miles." Also, in the same sub-paragraph, strike out the amount "20%;" and, in lieu thereof, insert: "25%."

LUTHER CLAY SLAVENS, *Claimant,*
By A A. HOEHLING, JR., *His Attorney.*

Filed February 24, 1903.

58 III.—*Traverse. Filed March* 17, 1903.

And now comes the Attorney General on behalf of the United States, and answering the petition of the claimant herein, denies each and every allegation therein contained; and asks judgment that the petition be dismissed.

L. A. PRADT,
Ass't Attorney General.

IV.—*Argument and Submission.*

This case was argued on the 17th and 18th days of March 1903 and submitted.

59 V.—*Findings of Fact as Amended and Conclusion of Law, and Opinion of the Court and Dissenting Opinion.*

Filed as of May 25, 1903.

This case having been heard by the Court of Claims, the court, upon the evidence, make the following

Findings of Fact.

I.

The claimant is a citizen of the United States, and a resident of Kansas City, in the State of Missouri.

II.

That on September 15, 1892, the then Postmaster-General of the United States, acting therein on behalf of the United States, advertised for proposals for transporting the mails in various cities, and, among others, on route No. 204001, being the "covered regulation wagon mail messenger, transfer, and mail station service," at the city of Boston, Mass.

III.

That, pursuant to said advertisement and the several matters therein contained, claimant made and filed with the department a proposal for the performance of said service, consisting of transporting the mails at and in said city of Boston for the period named in said advertisement, to wit, from July 1, 1893, to June 30, 1897, inclusive, naming as the compensation to be received by claimant

therefor the sum of $49,516 per annum; that said bid was duly accepted by the department, and thereafter, on December 21, 1892, claimant entered into a contract with the United States for the performance of said service during the period aforesaid, and thereupon he engaged in the carrying of the mails aforesaid under said contract, a copy of which contract appears in the petition.

IV.

During the time claimant performed the service under said contract the defendant required him to transport the mails be-
60 tween the mailing room and basement of the general post-office, at said city of Boston, and the stopping place of West End Street Railway Company, on Water street, in said city, from May 1, 1895, to February 1, 1896, requiring the employment by claimant, in the rendition of such service, two wagons, two horses, and two drivers, and sometimes an extra wagon.

The claimant protested against the performance of these services to the postmaster at Boston, but no protest or objection was made to the Postmaster-General, nor to any person connected with
(J. R.) the Post-Office Department at Washington. If entitled to recover for these services the reasonable value thereof is $274.55.

V.

During the term of said contract claimant was directed by the postmaster at the city of Boston to transmit the mails between what was known as the Back Bay post-office and the Brookline post-office, a distance of from 2½ to 3 miles, the latter post-office being outside of the city limits of Boston, and situated in an independent town, and which said service was not embraced within the terms of said contract. That claimant objected to the performance of this service to the postmaster at Boston, but did not make any protest to the Postmaster-General nor to any officer of the Post-Office Department, nor was the Postmaster-General nor any officer of the Post-Office Department apprised of the fact of the performance of this service by the claimant until August 14, 1894. Upon being apprised of the performance of this service by the claimant, the Postmaster-General promptly ordered its discontinuance and entered into contract to have the same performed by another person, for
(J. R.) which payment was made to said other person. If entitled to recover for these services the reasonable value is $462.50.

VI.

That on December 9, 1895, and during the term of said contract, defendant ordered claimant to discontinue the service so being performed by him on said route No. 204001, and, pursuant to said order,

claimant was compelled to discontinue the performance of said service on January 31, 1896.

A copy of said order to discontinue is as follows:

WASHINGTON, D. C., *December* 9, 1895.

"SIR: You are informed that the following order has this day been issued on route No. 204001—covered regulation wagon mail messenger, transfer, and mail station service at Boston, Mass.:

"'From January 31, 1896, discontinue service, allowing contractor one month's extra pay.'

"Very respectfully,

C. NEILSON,

"*Second Assistant Postmaster-General.*

"Mr. Luther Clay Slavens, Kansas City, Jackson county, Mo."

VII.

That said order to discontinue said service under the contract aforesaid was not made on account of any neglect or default on the part of claimant in the performance of said contract. The right was asserted by defendant to so order claimant to discontinue the
61 service under the clause contained in said contract providing "that the Postmaster-General may discontinue the entire *service* whenever the public interest, in his judgment, shall require such discontinuance." Claimant had been previously offered the privilege of continuing the service at a reduction from the contract rate, which he declined.

VIII.

(J. R.) That thereupon, in order to have the service thus reorganized performed, against the protest and objection of claimant, and without his consent, defendant ordered claimant to discontinue said service and thereafter defendants relet the same service (as decreased, as aforesaid) under said route No. 204001, to another for the balance of said contract period, namely, from February 1, 1896, to June 30, 1897, inclusive, a period of seventeen months, at a compensation of $37,000 per annum, said route being designated in said Skinner contract as No. 204002, and that said service was thereafter continuously performed by such other during the remainder of the contract period aforesaid.

IX.

If the claimant is entitled to recover damages, as for a breach of the contract, because of its annulment prior to the period therein named, the measure of damages would be the sum of $18,884.14, less the one month's extra pay paid upon said contract, to wit, the sum of $4,126.33, leaving the amount to be recovered $14,757.81.

X.

On September 15, 1892, the then Postmaster-General of the United States, acting therein on behalf of the United States, also invited proposals for transporting the mail on route No. 207001, being the "covered regulation wagon mail messenger, transfer, and mail station service," at the city of Brooklyn, State of New York.

XI.

Pursuant to said advertisement and the matters therein contained, claimant made and filed with the department a proposal for the performance of said service, consisting in carrying the mails in said city of Brooklyn for the period named in said advertisement, namely, from July 1, 1893, to June 30, 1897, inclusive, naming as the compensation to be received by claimant therefor the sum of $18,934 per annum; that said bid was duly accepted by said department; and thereafter, on December 21, 1892, claimant entered into a contract with the United States for the performance of said service during the period aforesaid; and thereupon claimant engaged in the carrying of the mails aforesaid under and in pursuance of said contract.

A true copy of said contract appears in the petition.

XII.

During the claimant's term of service at Brooklyn, N. Y. (from December 18, 1895), and in order to provide that city with improved mail facilities, the Post-Office Department established mail
62 service on the Brooklyn Heights railroad (railway routes Nos. 207805 and 207807)—a street-car line—for the transportation in the cars of that company of the mails from the vicinity of the post-office to the vicinity of the postal stations E, W, and G, and the Long Island railroad at Long Island City (Manhattan avenue and Box street).

The service thus established dispensed with the service theretofore required of claimant under his contract for the transportation of mails over the routes covered by said street-car line. In lieu of this service the claimant was required to perform service between the post-office and the mail route established on the street-car line and between said mail route and the mail stations. The same mails theretofore required under his contract to be transported over long distances were thereby reduced to very shorter distances.

The service theretofore required of the contractor under his contract and the advertisement, of which he was relieved, and the service required of him in lieu thereof, is, in detail, as follows:

(*b.*) The service under the advertisement was: General post-office to station E, distance 5.38 miles, 36 round trips per week. The service required in lieu thereof was: Station E to Brooklyn Heights

railroad (Alabama avenue), 0.23 of a mile, from December 18, 1895, 119 round trips per week.

The miles of travel of which the claimant was relieved *was* 4,298.66.

The miles of travel required in lieu thereof *was* 143.56, a reduction in miles of travel of 4,155.01.

(*a.*) From December 18, 1895, claimant was required to perform further service to station E in lieu of the service theretofore required, such new service being from Manhattan crossing to station E, 0.38 of a mile, 18 round trips per week. Manhattan crossing was a railroad station on a railroad route, No. 107124, and was in existence at the time the claimant made his contract. The service was provided for by paragraph 2 of the advertisement and provisions of the contract, section 10.

(*c.*) The service required under the advertisement was: Station G to station W, 1.65 miles, 50 trips per week; station W to station G, 1.65 miles, 57 trips per week. The service required of claimant in lieu thereof was: Station G to Brooklyn Heights railroad (Manhattan and Green Point avenues), 0.06 of a mile (from December 18, 1895), 118 trips per week; Brooklyn Heights railroad to station G, 0.06 of a mile (from same date), 119 trips per week. The miles of travel of which the claimant was relieved *was* 1,855.92; the miles of travel in lieu thereof *was* 149.48, making a net reduction in miles traveled of 1,706.44.

(*d.*) The service required under the advertisement was: General post-office to station W, distance 2.57 miles, 70 round trips a week. The service required of claimant in lieu thereof was: Station W to Brooklyn Heights railroad (Bedford avenue and Broadway), 0.08 mile (from December 18, 1895), 232 trips a week. The miles of travel of which claimant was relieved *was* 3,782.14; the miles of travel in lieu thereof *was* 389.98; a reduction in miles of travel of 3,392.16.

(*e.*) The service required under the advertisement was: General post-office to Long Island railroad at Long Island City, via stations S, W, and G, 8.10 miles, 6 trips a week. Long Island railroad at Long Island City, via stations G and W, to general post-office, 5.04 miles, 12 trips a week.

63 The service required of complainant in lieu thereof was: Long Island railroad at Long Island City to Brooklyn Heights railroad, 0.61 mile (from December 18, 1895), 36 round trips a week.

The miles of travel of which the claimant was relieved *was* 1,437.82; the miles of travel required in lieu thereof *was* 461.76, a reduction in miles of travel of 976.06.

Further, during the claimant's term of contract at Brooklyn, the department authorized and established regular railroad service on the Brooklyn Heights railroad on route 107172, terminating in the city of Brooklyn.

It became necessary, in consequence of the establishment of said railroad route, to provide service between the general post-office and

the terminus of such route at Fulton and Johnson streets, and the claimant was required to provide for same.

Details of the service required are as follows:

(*f* and *h*) general post-office to Brooklyn Heights railroad, Fulton and Johnson streets, 0.1 mile (from May 8, 1895), 81 trips a week. Brooklyn Heights railroad, Fulton and Johnson streets, to general post-office, 0.1 mile, 57 trips a week.

This service was properly required under paragraph 2 of the advertisement and provisions of the contract, and the tenth section of same.

Further, during the claimant's term of contract at Brooklyn, the department authorized regular railroad service on the Brooklyn Heights railroad on route 107143, terminating in the city of Brooklyn.

It became necessary, in consequence of the establishment of said railroad route, to provide service between the general post-office and the terminus of said route at Fulton and Johnson streets, and the claimant was required to provide for the same.

Details of the service required are as follows:

(*g*.) General post-office to Brooklyn Heights railroad, 0.1 mile (from January 7, 1895), 38 round trips a week.

This service was properly required under paragraph 2 of the advertisement and provisions of the contract, and the tenth section of same.

Further, during the claimant's term of contract at Brooklyn, the authorized regular railroad service on the Brooklyn, Bath and West End railroad, on route 107076, terminating in the city of Brooklyn.

This new railroad route superseded mail messenger route 207066, which was operated theretofore by the same railroad company, and terminated 3.66 miles from the post-office, between which points the claimant had been required under the advertisement to perform service.

Department required the claimant to provide for the service between the general post-office and the terminus of the railroad route, 0.01 of a mile, instead of between the general post-office and the mail messenger route, 3.66 miles. The same mails were carried and to the same road, but to a new and nearer terminus.

Details of the service superseded and that required in lieu thereof are as follows:

(*i*.) The service required under the advertisement was: General post-office to Brooklyn, Bath and West End railroad, 3.66 miles, 18 round trips a week.

The service required of claimant in lieu thereof was:

Same service (from June 25, 1894), but over a distance of 0.01 mile instead of 3.66 miles.

The miles of travel of which claimant was relieved *was*
64 11,506.01; the miles of travel required in lieu thereof *was* 31.38; a reduction in miles of travel of 11,474.63.

Even if it were not considered the same service the requirement

as to performance of which was more advantageous to claimant, it was, nevertheless, properly required under paragraph 2 of the advertisement and provisions of the contract and the tenth section of same.

In every instance excepting those covered by claims *f*, *g*, and *h*, the service required was the same service theretofore performed, but for a less distance, and in cases of claims *f*, *g*, and *h*, it was new service to new stations. In case covered by claim *i* it was to a new route and station, as well as being the same service.

If the claimant could recover for service specified in claims *a* to *i*, the measure of such recovery would not exceed the fair value of same, which is shown by the amounts paid contractors who immediately succeeded claimant's service, as follows:

Claims *a* and *b*, $142.01.
Claim *c*, $91.30.
Claim *d*, $111.58.
Claim *e*, $60.96.
Claims *f*, *g*, and *h*, service was subsequently covered by
(J. R.) general contract for regulation wagon service, $1020.00.
Claim *i*, $840.66.

XIII.

That on January 21, 1896, and during the term of said contract, defendant ordered claimant to discontinue the service so being performed by him on said route No. 207001, and pursuant to said order claimant was compelled to discontinue the performance of said service on March 1, 1896.

A copy of said order to discontinue is as follows:

"POST-OFFICE DEPARTMENT, *January* 21, 1896.

"Route 207001.

"Order No. 1432.

"Discontinue service from February 29, 1896, and allow contractor one month's extra pay.

(Signed) "WM. L. WILSON,
"*Postmaster-General.*"

XIV.

That said order to discontinue said service, described in the contract aforesaid, was not made on account of any neglect or default on the part of claimant in the performance of said contract. The right was asserted by the defendants to so order claimant to discontinue said services under the clause contained in said contract providing "that the Postmaster-General may discontinue the entire service whenever the public interest, in his judgment, shall require such discontinuance."

There was, however, no discontinuance of the service in carrying the mails on said route. Claimant had been previously offered the

(J. R.) privilege of continuing the service at a reduction from the contract rate, in the Boston case which he declined.

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XV.

(J. R.) That thereupon in order to have the service as thus reorganized performed against the protest and objection of claimant and without his consent, defendants ordered claimant to discontinue said service (*supra*), and immediately thereafter defendants relet the same service (as decreased, as aforesaid), under said route No. 207001, to another for the balance of said contract period, namely, from March 1, 1896, to June 30, 1897, inclusive, a period of sixteen months, at a compensation of $9,720 per annum, said route being designated in said Chilton contract as No. 207004, and that said service was thereafter continuously performed by such other during the remainder of the contract period aforesaid.

XVI.

On September 15, 1893, the then Postmaster-General of the United States, acting therein for and on behalf of the United States, advertised for proposals for transporting the mails in various cities, and, among others, on route No. 257001, being the "covered regulation wagon mail messenger, transfer, and mail station service" at the city of Omaha, State of Nebraska.

XVII.

Pursuant to said advertisement and the matters therein contained, claimant, under the name of Luther Clay Slavens, Jr., filed with the department a proposal for the performance of said service, consisting of carrying the mails in said city of Omaha for the period named in said advertisement, to wit, from July 1, 1894, to June 30, 1898, inclusive, naming as the compensation to be received by claimant therefor the sum of $3,780 per annum; that said bid was duly accepted by the department, and thereafter, on December 21, 1893, claimant, under the name of Luther Clay Slavens, Jr., entered into a contract with the United States for the performance of said service during the period aforesaid.

A true copy of said contract appears in the petition.

XVIII.

During the term of claimant's contract for services in Omaha the Post-Office Department authorized and established two new railroad mail routes in that city, operated by the Omaha Street Railway Company, one between the Union depot and the Omaha post-office, Fourteenth and Dodge streets, and the other between Fourteenth and Dodge streets and South Omaha. One end of each of these routes terminated at Fourteenth and Dodge streets, which was a

junction and transfer point, such as is usual with street-car lines in cities for the accommodation of the public, and the other end of one of these routes terminated at the Union depot.

After the establishment of a railroad route between these points a large amount of the service theretofore performed by claimant in wagons between the points was thereafter performed by the street railway company over the railroad route. By reason of the establishment of these new railroad routes it became necessary to provide service between their termini at Fourteenth and Dodge streets and the post-office between the two routes (transfers) at that point, and between the terminus of one route and the Union depot. Though not so ordered, this service was in part performed in lieu of such service between the general post-office and the Union depot, of which the claimant had been relieved by reason of its performance by the street car company on the newly established railroad route.

The amount of service of which the claimant was thus relieved was 176.6 miles of travel per week, while the amount which was required of him in lieu thereof was 41.06 miles of travel per week—an actual reduction of 132.54 miles per week. Though the subsequent advertisement of the service included all that the claimant performed, and besides considerable other service which he did not perform (service which had been theretofore included under a mail-messenger route), yet the claimant's own estimate of the value of the combined service was only $347 per annum more than he was being paid for the lesser service; and out of the lowest nine bidders seven of them estimated by their proposals the value of the combined service at less than the amount which the claimant was being paid for the lesser service, the lowest bidder, and to whom the service was subsequently awarded, being $1,130 less.

The service thus established was a mere substitution of another manner of performing the same service contracted for and at an advantage to the claimant, and was otherwise properly required under paragraph 2 of the advertisement and provisions of the contract and the tenth section of the same.

Conclusion of Law.

Upon the foregoing findings of fact the court decides, as a conclusion of law, that the claimant can not recover, and his petition should be dismissed.

WRIGHT, J., delivered the opinion of the court.

As may be discovered by reference to the findings of fact, the claimant herein was given three separate contracts for the transportation of mails in covered regulation mail wagons, one in Boston, another in Brooklyn, and still another in Omaha.

There are items for compensation in the cases of all the contracts for service, claimed to have been rendered at defendant's request outside the terms of the contracts, as it has been alleged, and much argument has been urged upon our attention in support and refutation of the respective contentions of the parties in this regard. In addition to these items of so-called extras, the claimant insists upon compensation for carrying the mails between Back Bay and Brookline post-offices, the latter being outside the city of Boston; but as this service was performed without the knowledge or request of anyone having defendants' authority, this item, it is plain, can not be allowed, and it will be dismissed from the case without further notice. (Whitsell *v.* United States, 34 C. Cls. R., 5.)

The chief claim growing out of the Boston and Brooklyn contracts is for a discontinuance by the Postmaster-General of all the service described in, and which was being performed under, those contracts,
resulting, as has been argued by claimant, in a breach of the
67 contracts by the defendants, and consequent damage to him.

Both the right of the claimant to compensation for alleged extra services, and to damages for the termination of the services of the claimant, as was done, may be disposed of by correct interpretations of the contracts themselves.

In every essential particular, as relates to the points in question the contracts are alike, and in them claimant agreed to perform all new, or additional, or changed covered regulation wagon, mail, messenger, transfer, and mail-station service that the Postmaster-General might order during the contract term, without additional compensation, whether caused by change of location of post-office, stations, landing, or the establishment of others than those existing at the date of the contract, or rendered necessary, in the judgment of the Postmaster-General, for any cause, and to furnish such advance wagons or extra wagons from time to time for special or advance trips as the Postmaster-General might require as a part of such new or additional service; that the Postmaster-General might change the schedule and termini of the route, vary the routes, increase, decrease, or extend the service thereon, without change of pay; and that the Postmaster-General might discontinue the entire service whenever the public interest, in his judgment, should require such discontinuance, but for a total discontinuance of service claimant should be allowed one month's extra pay as full indemnity.

In support of the right to recover for the items of extra service, as he has described them, claimant has produced argument to prove that such services were extra services, as distinguished from new, or additional, or changed service, described in the contracts, for which no additional compensation should be given. The service so described was such as might be rendered necessary for any cause, in the judgment of the Postmaster-General. It must, of course, be connected with, or incident to, the covered wagon mail, messenger, transfer, and mail-station service, for such only is the subject-matter of the contracts. It is easily seen that the extra service claimed for

readily falls within the class or description of service specified in the contracts, or in part of, or incident to such service, rendered necessary for some sufficient cause. The discretion or judgment of the Postmaster-General, given by the contract, to determine the necessity of such service, ought not to be questioned, unless to prevent unwarranted or unjust interruptions of the contract rights vested in the claimant. It will not be presumed that officer required the performance of services not demanded by the exigencies of the business. Nothing appearing to the contrary, it will be assumed that the service required was necessary to the proper administration of the powers conferred by law upon the head of the department, which was clearly reserved by the stipulations contained in the contracts. The distinction endeavored to be pointed out between extra services and new and additional services is not seen. Extra or additional services are synonymous. There can be no difference in the meaning of the words, and whether called by the one or the other name the services equally fall within the description given to them by the contracts.

It is also insisted that the change of part of the service from covered regulation wagon to street-railway service was unwarranted by the contract. We are unable to give effect to the terms of
68 the contract giving authority to vary the routes, increase or decrease or extend the service thereon, without supporting the change to street railway service, the only effect of which was to decrease the service undertaken by claimant, and which was clearly authorized by the contracts. The cause or reason why such change, or decrease of service, might be made was not stated in the contracts, but left to the discretion of the Postmaster-General. It is true the contract provided that such decrease was to be without change of pay, and if this was the only provision of the contract in this regard, there would be much force in claimant's contention, but all the provisions of the contracts must be considered and given the effect intended by the parties when they were entered into.

After the service had been decreased, as stated, the Postmaster-General submitted to claimant a proposition, or suggestion, that he voluntarily relinquish part of the contract price for the continued performance of the services remaining after the change of a part thereof to the street railways, but claimant declined, in which, no doubt, he was clearly within his rights. In other words, he was under no obligation, under the contracts, to continue at a reduced price. So, therefore, the proposition and its rejection had no effect whatever upon the rights of either party, as defined by the contracts, and such were left to be determined by the provisions thereof, according to the terms and stipulations contained therein. The contracts gave to the Postmaster-General authority to discontinue the entire service whenever the public interest, in his judgment, should require such discontinuance, the claimant in such case, to be allowed one month's extra pay, as full indemnity, and this he did in the Boston and Brooklyn contracts.

Against this action of that officer it is argued that he discontinued the service because claimant declined to continue at a reduced rate, but we have not found the action of the officer was so influenced. We must presume, nothing appearing to the contrary—and it does not—such action was influenced solely because, in his judgment, the public interest required the discontinuance of claimant's services under the contracts in question. We can see, also, there was good reason for such conclusion. The service had been rightfully decreased, under the stipulations of the contracts, until the services remaining to be performed were not reasonably worth the original contract rate, and to have continued its payment would have been contrary to public interests, and while claimant was under no obligation to continue in the service at a reduced rate, the head of the department was obligated, as well by the duties of his high office as the provisions of the contract, to subserve the public interests in taking care that no unreasonable compensation was paid for the services actually performed.

It is insisted, however, that by the contracts was meant the discontinuance of the service entirely—that is, an abandonment of all mail service in the cities in question. The mere statement of this position, we think, is its own demolition. It is unreasonable to believe that it was in the mind of anybody, when the contracts were made, that all mail service in any of the cities named would ever be abandoned. Such clearly was not the intention of the parties, in the use of the language employed. That which was intended, however, and by the words of the contracts accomplished, was
69 that the performance of the entire service by the claimant might be discontinued by the Postmaster-General whenever the public interest, in his judgment, required it. The power reserved in the contract to the Postmaster-General to discontinue the entire service, whenever the public interests in his judgment should require it, was the same, and none other, than the power to annul the contract when his judgment advised that it should be done (Garfielde *v.* The United States, 93 U. S., 246); and this being true, the only effect of such annulment would be to discontinue the further performance by claimant of the service described in the contract, and not an abandonment, for future time, of the mail service in the cities mentioned, to be let and performed as in other cases.

In conformity to the views herein expressed, the petition of the claimant should be dismissed, and it is ordered accordingly.

NOTT, *Ch. J.*, dissenting:

1. Mr. Justice Davis, in the case of Otis (20 C. Cls. R., 315), laid down as the rule of construction for these mail-messenger contracts of the Post-Office that the "new or additional mail-messenger or transfer service" which is to be performed "without additional compensation" must be construed to mean service similar in nature to that required by the contract. He also held that a contract prepared at the Post-Office leaving the contractor no choice as to form

or phraseology must be construed in a doubtful case in favor of justice and against the Government. A more sound and just rule of construction was never laid down by a judge. The case was carried to the Supreme Court and affirmed (120 U. S. R., 115).

I perceive nothing in the present case which justifies me in departing from the decision in the case of Otis, followed as it has been by similar decisions in successive cases.

In previous cases it has been held that there is a difference "in kind" between a "mail station" and a "receiving station." The difference in kind between a street car and a post-office seems to me to be much more radical than the difference between a receiving station and a mail station. This system of carrying the mails on street cars did not exist when the contract was made; the claimant did not agree to meet street cars; he did not agree to meet street cars on time; he did not agree to wait for street cars behind time. The Postmaster-General had no right to try this experiment in city mail transportation at the claimant's cost. As was said in a recent case, "a new system of receiving stations" is not "new or additional transfer or mail station service;" and "extra service" is not new or additional service. For the one, the contractor can recover; the other must be performed without additional compensation.

(Union Transfer Co.'s Case, 36 C. Cls. R., 216.)

70 2. It is well settled that where a contract provides that additional work or service or material may be ordered only by a designated officer, such as the head of a department, a subordinate can not bind the defendants by directing the contractor to do additional work, even though the defendants receive a benefit therefrom. That is to say, if the Secretary of the Treasury intends to erect a building at a cost of $100,000, and stipulates that there shall be no additional work done, except when ordered by himself, the officer under whom the work is done can not make the defendants pay $110,000 for a better building than they contemplated erecting through their Secretary of the Treasury. But it is equally well settled that where service is rendered to the Government, which it needs and is invited by an officer having charge of such work, an implied contract will arise and the claimant will recover *in quantum meruit*. (Clark *v.* United States, 95 U. S. R., 539.)

What are the distinguishing facts in this case? The claimant was a contractor doing mail-messenger service in the city of Boston under a contract which, in effect, required him to do whatever the postmaster might order and direct. There were complaints that the railroad service by which the Brookline post-office was served was inefficient and unsatisfactory. The postmaster, supposing that Brookline was within the territory of the contractor and that the additional service would be performed without additional compensation, ordered the contractor to do it by wagon service. He complied, but appealed to the Postmaster-General, setting forth that the service was beyond his territory. The Postmaster-General called on the postmaster for explanations and investigated the facts; he

then approved the service and thereby ratified what had been done, and directed the postmaster to take measures for its unbroken continuance and for permanently carrying it on. When these arrangements had been made he relieved the contractor from performing. The case, therefore, is precisely like that of Otis (120 U. S. R., 115, 121, 123) where, under a similar contract, the postmaster in New York required the contractor to carry mails beyond his territorial field, viz., from New York to Jersey City, and where the Supreme Court held that this was extra service for which the contractor was entitled to recover.

71 VI.—*Judgment of the Court.*

LUTHER CLAY SLAVENS
v.
THE UNITED STATES. } No. 21973.

At a Court of Claims held on the 25th day of May, 1903, judgment was ordered to be entered as follows:

The court on due consideration of the premises find for the defendants and do order, adjudge and decree that the petition of the claimant, Luther Clay Slavens, be and is hereby dismissed.

BY THE COURT.

72 VII.—*Application for and Allowance of Appeal.*

LUTHER CLAY SLAVENS
v.
UNITED STATES. } No. 21973.

Comes now the above named claimant, by his attorney, and moves the court to allow an appeal herein to the Supreme Court of the United States, from the judgment in this case, dismissing claimant's petition May 25, 1903.

A. A. HOE-LING, JR.,
Attorney for Claimant.

Filed August 10, 1903.

Ordered, that the aforesaid application for appeal be allowed as prayed for.

BY THE COURT.

March 28, 1904.

73 Court of Claims, Washington, D. C.

LUTHER CLAY SLAVENS
v.
UNITED STATES. } No. 21973.

I John Randolph assistant clerk of the Court of Claims hereby certify that the foregoing are true transcripts of the pleadings in the above-entitled cause, of the findings of fact and conclusion of law, of the opinion of the court and the dissenting opinion, of the judgment of the court dismissing the petition, of the application for and allowance of appeal to the Supreme Court of the United States.

Seal Court of Claims.

In testimony whereof I have hereunto set my hand and affixed the seal of said Court of Claims this 5th day of April, A. D. 1904.

JOHN RANDOLPH,
Ass't Clerk Court of Claims.

Endorsed on cover: File No. 19,303. Court of Claims. Term No. 228. Luther Clay Slavens, appellant, *vs.* The United States. Filed April 21st, 1904. File No. 19,303.